

## II

*(Preparatory Acts)*

## COMMISSION

**Amended proposal for a European Parliament and Council Directive amending Directive 87/102/EEC (as amended by Directive 90/88/EEC) for the approximation of laws, regulations and administrative provisions of the Member States concerning consumer credit: single mathematical formula for the annual percentage rate of charge (APR) <sup>(1)</sup>**

*(97/C 137/07)**(Text with EEA relevance)**COM(97) 127 final — 96/0055(COD)**(Submitted by the Commission pursuant to Article 189a (2) of the EC Treaty on 21 March 1997)*


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<sup>(1)</sup> OJ No C 235, 13. 8. 1996, p. 8.

## ORIGINAL PROPOSAL OF THE COMMISSION

## AMENDED PROPOSAL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

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THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 100a thereof,

Unchanged

Having regard to the proposal of the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and  
Social Committee <sup>(2)</sup>,

Acting in accordance with the procedure laid down in  
Article 189b of the Treaty,

Whereas it is desirable, in order to promote the estab-  
lishment and functioning of the internal market and to  
ensure that consumers benefit from a high level of  
protection, that one method of calculating the annual  
percentage rate of charge should be used throughout the  
European Community;

Whereas Article 5 of Council Directive 87/102/EEC <sup>(3)</sup>  
provides for the introduction of a Community method or  
methods of calculating the annual percentage rate of  
charge for consumer credit;

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<sup>(1)</sup> OJ No C 235, 13. 8. 1996, p. 8.

<sup>(2)</sup> OJ No C 30, 30. 1. 1997, p. 94.

<sup>(3)</sup> OJ No L 42, 12. 2. 1987, p. 48.

## ORIGINAL PROPOSAL OF THE COMMISSION

Whereas, in order to introduce this single method, it is desirable to draw up a single mathematical formula for calculating the annual percentage rate of charge and for determining the credit cost items to be used in the calculation by indicating those costs which must not be taken into account;

Whereas Annex II to Directive 90/88/EEC<sup>(1)</sup> introduced a mathematical formula for the calculation of the annual percentage rate of charge and Article 1 (2) of Directive 90/88/EEC provided the charges to be excluded from the calculation of the 'total cost of credit to the consumer';

Whereas during a transitional period of three years from 1 January 1993, Member States which prior to 1 March 1990 applied laws which permitted the use of another mathematical formula for calculating the annual percentage rate of charge, were permitted to continue to apply such laws;

Whereas the Commission has submitted a report<sup>(2)</sup> to the Council which makes it possible, in the light of experience, to apply a single Community mathematical formula for calculating the annual percentage rate of charge;

Whereas, since no Member State has made use of Article 1a (3) of the Directive by which certain costs were excluded from the calculation of the annual percentage rate of charge in certain Member States, it has become obsolete;

Whereas accuracy to two decimal places and the use of a 365- or 366-day year is necessary;

## AMENDED PROPOSAL

Whereas accuracy to two decimal places is necessary;

Whereas the annual percentage rate of charge should be calculated on the basis of a uniform calculation method which assumes either a calendar, 365- (or for leap years 366) day year or a standard, 365-day year;

<sup>(1)</sup> OJ No L 61, 10. 3. 1990, p. 14.

<sup>(2)</sup> COM(96) 79.

## ORIGINAL PROPOSAL OF THE COMMISSION

Whereas it is desirable that consumers should be able to recognize the terms used in different Member States to indicate the 'annual percentage rate of charge', and that the use of a common symbol, in addition to the existing term, should be mandatory in all consumer credit advertisements and written agreements with consumers throughout the European Community,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Whenever the term 'annual percentage rate of charge', or the equivalent term in another Community language, is used as required by Directive 87/102/EEC, it shall be accompanied by the following symbol:

*Article 2*

Article 1a (1) (a) shall be replaced by the following:

— in the Greek language version of the Directive:

‘Το συνολικό ετήσιο πραγματικό ποσοστό επιβάρυνσης που εξισώνει σε ετήσια βάση τις παρούσες αξίες του συνόλου των τρεχουσών ή μελλοντικών υποχρεώσεων (δανείων, εξοφλήσεων και επιβαρύνσεων) που έχουν αναληφθεί από το δανειστή και το (δανειζόμενο) καταναλωτή, υπολογίζεται σύμφωνα με το μαθηματικό τύπο που παρατίθεται στο παράρτημα ΙΙ’,

— in the English language version of the Directive:

‘The annual percentage rate of charge which shall be that rate, on an annual basis which equalizes the present value of all commitments (loans, repayments and charges), future or existing, agreed by the creditor and the borrower, shall be calculated in accordance with the mathematical formula set out in Annex II’.

*Article 3*

Article 1a (3) shall be deleted.

## AMENDED PROPOSAL

Whereas it is desirable that consumers should be able to recognize the terms used in different Member States to indicate the 'annual percentage rate of charge',

HAVE ADOPTED THIS DIRECTIVE:

Deleted

*Article 1*

Unchanged

*Article 2*

Unchanged

ORIGINAL PROPOSAL OF THE COMMISSION	AMENDED PROPOSAL
<i>Article 4</i>	<i>Article 3</i>
Article 1a (5) shall be deleted.	Unchanged
<i>Article 5</i>	Deleted
Article 3 shall be amended as follows:	
<p><i>'Article 3</i></p> <p>Without prejudice to Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising <sup>(1)</sup>, as amended by Council Directive ... of ... 1996 concerning comparative advertising, and to the rules and principles applicable to unfair advertising, any advertisement, or any offer which is displayed at business premises, in which a person offers credit or offers to arrange a credit agreement and in which a rate of interest or any figures relating to the cost of the credit are indicated, shall also include a statement of the annual percentage rate of charge, accompanied by the symbol as mentioned in Article 1 of this Directive, by means of a representative example if no other means is practicable.'</p>	
<i>Article 6</i>	Deleted
Article 4 (2) (a) shall be amended as follows:	
<p>'(a) a statement of the annual percentage rate of charge, accompanied by the symbol as mentioned in Article 1 of this Directive'.</p>	
<i>Article 7</i>	<i>Article 4</i>
Annex I attached hereto shall become Annex II, replacing Annex II of Directive 87/102/EEC (as amended by Directive 90/88/EEC).	Unchanged
<i>Article 8</i>	<i>Article 5</i>
Annex II attached hereto shall become Annex III, replacing Annex III to Directive 87/102/EEC (as amended by Directive 90/88/EEC).	Unchanged
<i>Article 9</i>	<i>Article 6</i>
1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive no later than 31 December 1996 and shall inform the Commission thereof.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive no later than 1 January 1999 and shall inform the Commission thereof.

<sup>(1)</sup> OJ No L 250, 19. 9. 1984, p. 17.

## ORIGINAL PROPOSAL OF THE COMMISSION

## AMENDED PROPOSAL

When Member States adopt those measures, they shall include references to this Directive or shall accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made.

Unchanged

2. The Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Unchanged

*Article 10**Article 7*

This Directive is addressed to the Member States.

Unchanged

*ANNEX I**ANNEX I**ANNEX II**ANNEX II***BASIC EQUATION****BASIC EQUATION**

**THE BASIC EQUATION EXPRESSING THE EQUIVALENCE OF LOANS ON THE ONE HAND AND REPAYMENTS AND CHARGES ON THE OTHER**

**THE BASIC EQUATION EXPRESSING THE EQUIVALENCE OF LOANS ON THE ONE HAND AND REPAYMENTS AND CHARGES ON THE OTHER**

$$\sum_{K=1}^{K=m} \frac{A_K}{(1+i)^{t_K}} = \sum_{K'=1}^{K'=m'} \frac{A'_{K'}}{(1+i)^{t_{K'}}$$

Unchanged

where:

$K$  is the number of a loan,

$K'$  is the number of a repayment or a payment of charges,

$A_K$  is the amount of loan number  $K$ ,

$A'_{K'}$  is the amount of repayment number  $K'$ ,

$\Sigma$  represents a sum,

$m$  is the number of the last loan,

$m'$  is the number of the last repayment or payment of charges,

$t_K$  is the interval, expressed in years and fractions of a year, between the date of loan No 1 and those of subsequent loans Nos 2 to  $m$ ,

$t_{K'}$  is the interval, expressed in years and fractions of a year, between the date of loan No 1 and those of repayments or payments of charges Nos 1 to  $m'$ ,

## ORIGINAL PROPOSAL OF THE COMMISSION

## AMENDED PROPOSAL

- i is the percentage rate that can be calculated (either by algebra, by successive approximations, or by a computer program) where the other terms in the equation are known from the contract or otherwise.

*Remarks:*

- (a) The amounts paid by both parties at different times shall not necessarily be equal and shall not necessarily be paid at equal intervals.
- (b) The starting date shall be that of the first loan.
- (c) Intervals between dates used in the calculations shall be expressed in years or in fractions of a year. A year is presumed to have 365 or 366 days.
- (d) The result of the calculation shall be expressed with an accuracy of 2 decimal places. If the figure at the third decimal place is greater than or equal to 5, the figure at the second decimal place shall be increased by one.'

Unchanged

- (c) Intervals between dates used in the calculations shall be expressed in years or in fractions of a year. A year shall be taken to be either: (i) a calendar year comprising 365 or, for leap years, 366 days, or (ii) a standard year comprising 365 days, 52 weeks or 12 equal months. An equal month is presumed to have 30,41666 days (i.e.  $365/12$ ).

Unchanged'