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| Oikeusministeriö  Submitted electronically |

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|  |  | Stockholm, 13 September 2019 |
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Public Cosultation response - Assessment memorandum on marketing of consumer credits (VN/2281/2019)

While American Express is aware that the consultation period for the above-mentioned memorandum has come to an end, American Express would be very grateful if the Department of Justice takes into consideration the arguments presented in this paper in the forthcoming legislative work on regulating the marketing of consumer credits. As stated in the memorandum, several legislative changes have been made during the last decade in Finland to address the problems caused by the most expensive consumer credits, but some problems have yet to be solved. Expensive consumer loans can have long-lasting and significant consequences for the individuals concerned and the wider economy. Such loans can contribute to a general risk of over-indebtedness in society.

American Express believes that financial service providers should actively engage with the Government to combat the issue of over-indebtedness and is therefore supportive of the Government’s efforts to make the consumer finance sector operate in a sustainable way. Importantly, American Express’s unique payment model in the Finland does not depend on high interest bearing credit products. American Express primarily generates revenue in Finland by providing payment services to consumers, businesses and merchants. We charge clear and transparent fees for these services. For consumers, most of the fees are charged up front when they choose to take a card product which enables them to make an informed decision. In this way we are quite different from many other financial providers in Finland. We do recognise though the broader risk bad credit issuing practices could have for the reputation and sustainability of the wider financial services industry, and therefore have a vested interest in supporting actions which will improve protection for consumers.

As American Express operates across the globe, we have seen a variety of approaches for dealing with the problem of over-indebtedness and persistent debt. American Express´ experience, which extends over decades and multiple countries, show that over-indebtedness is a very complex issue and is caused by several factors, such as life, financial and/or macro events during the duration of a credit agreement. As credit can still be a positive force in the economy when issued correctly (notably in providing flexible finance to small businesses or enabling financially secure households manage their finances effectively), initiatives need to be targeted at protecting vulnerable consumers or suppressing specific types of overly risky or costly credit products.

The purpose of the measures discussed in the assessment memorandum is to decrease over-indebtedness by imposing restrictions on the marketing of consumer credit. American Express believes that it is imperative that a thorough and balanced analysis, including a proper impact assessment, is made prior to proposing new legislation so that all relevant factors can be taken into account, and the full range of regulatory and industry-led mitigations can be considered. Further, it is important that any proposed regulatory changes can achieve the underlying goals in an effective manner without creating disproportionately burdensome consequences for market players.

At present we do not believe broad based marketing restrictions will be effective in reducing consumer over-indebtedness, notably the restrictions which aim control in detail the content of marketing materials and restrict use of commonplace digital marketing tools which help to ensure only certain people see certain ads. While we would support better communication to consumers on the real cost of credit, the proposals to mandate such warnings may not prove to be the most effective way to educate consumers and drive better choices. Importantly the fact all measures would be applied to all credit products in scope mean that products with very low costs for consumers (e.g. low interest rates, no penalties) will be treated just the same as those with high costs. This will not help to shift consumers, or the financial providers, to move away from these high cost products. In addition, as the restrictions would make it harder in general to market products effectively it will likely reinforce the position of the largest credit providers today, stopping smaller players or new entrants from offering services to Finnish citizens and allowing competition to drive down the cost of credit more broadly.

We have specific concerns on how such interventions may inadvertently impact the Finnish payments market, and our own ability to service Finish citizens. Consumer surveys conducted in multiple EU countries indicate that up to 80% of consumers are most likely to get their payment card from a traditional bank, though there is a high appetite for alternatives. Marketing restrictions, if applied across the entire payments market irrespective of the type of product issued, would make it much harder for alternative payment providers like American Express, who offer products directly to consumers, to compete. This in turn would reinforce the already strong dominance of Visa and Mastercard in Finland, likely leading to unintended consequences for the broader payments market (e.g. by enabling them to continue increasing the scheme fees they charge to the local Finnish issuers and acquirers with whom they work).

For these reasons we would like to take this opportunity to suggest alternative proposals which we believe will be more effective at addressing the real problems of consumer indebtedness in Finland, without risking the unintended consequences outlined above.

We’d encourage the Government to explore alternative options and not rule out measures that have been proven successful to battle over-indebtedness in other countries could be effective in Finland as well.

1. **Create a centralised credit risk register**

Within American Express, rich credit bureau data has shown to be pivotal to protect vulnerable consumers from over-indebtedness. By having access to detailed data regarding a consumer’s financial health it is easier for credit issuers to only engage in responsible lending practices. We have seen such registers developed in many EEA countries, most recently in Norway under their Gjeldsregistret initiative. The purpose of Gjeldsregistret is to prevent issues with debt in private households by creating a register which includes information on consumers current debt. The information in the register is then used by banks and other creditors’ when performing credit assessments and since reporting is obligatory for all creditors and carried out in regular intervals the data available is of high quality. Access to regularly updated and rich credit data helps financial companies engage in sound and responsible lending practices, while loan or credit applicants can expect better advice from the bank or consumer credit company regarding their capacity to carry further debt. The Finnish credit bureau, Asiakastieto, does not supply data on an applicant’s income or assets. Further, since it is not obligatory for creditors to report to the bureau, Asiakastieto does not hold all information on consumers current debt in real time, making it more difficult for creditors to make valid credit assessment and protect consumers from getting over-indebted.

**2. Adopt specific rules to protect vulnerable consumers**

In addition to better protecting all consumers through more comprehensive credit checks, additional measures could also be applied to vulnerable consumers – notably those who are at risk of persistent debt. Other countries have taken this approach, for example the UK’s Financial Conduct Authority conducted a thorough review of the credit card market and following its analysis mandated new rules[[1]](#footnote-1) to require credit card providers to take a series of escalating steps as soon as a customer has been in persistent debt for 18 months. These measures provide direct relief to at risk consumers, but also incentivise the credit providers to move away from business models which depend on such revenue. Similar comprehensive studies would need to be carried out in Finland to determine if such measures would be appropriate, but the overall approach of setting escalating obligations to protect at risk consumers we believe could be relevant given our understanding of the credit market in Finland.

**3. Target measures at high cost / risk products, not the entire credit market**

We understand the Government’s concern about operators who issue very high cost credit products, where the nature of the product means that the consumer is more likely to get into financial stress. We would suggest measures be targeted at such products, to discourage consumers use of them, rather than broad based measures being applied across the entire credit market. The UK FCA has recently done one of the more comprehensive credit market assessments[[2]](#footnote-2) and identified correlations with overall indebtedness and a usage of certain credit products. Were such correlations to be identified in Finland, and assessments done of their contribution to overall indebtedness, it would likely make sense to first apply measures on those products which pose a specific risk (e.g. payday loans, instalment loans).

We would respectfully encourage more analysis of the above alternative approaches in the Finnish context, and stand by to share our experience from approaches taken in other markets to deal with similar concerns of over-indebtedness and we appreciate the opportunity to comment on the proposal. Further, we would welcome the opportunity to discuss this in more detail with the members of the Department of Justice.

In addition we would offer to share how developments in payments can contribute to the goal of protecting consumers in Finland more broadly. One development we would particularly highlight as a potential game changer for empowering consumers to better understand and control their credit associated with payments is the introduction of Open Banking functionality. As you may be aware, new rules introduced under the Payment Services Directive II will come into force shortly on September 14th 2019. Raising the profile of these developments, and looking at specific use cases to deploy them in Finland, is something we would be happy to support (notably given Finland’s current presidency of the EU).

Thank you for your kind consideration of this submission and please do not hesitate to contact us is we may be of further assistance.

1. https://www.fca.org.uk/news/press-releases/new-credit-card-rules-introduced-fca [↑](#footnote-ref-1)
2. <https://www.fca.org.uk/data/consumer-credit-high-cost-short-term-credit-lending-data-jan-2019> [↑](#footnote-ref-2)