The highs and lows of long-term financing

RESEARCH REPORT

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Option consommateurs
Head Office
50, rue Ste-Catherine Ouest, Suite 440
Montréal (Québec)
H2X 3V4
Tel.: 514 598-7288
Fax: 514 598-8511

Email: info@option-consumers.org
Website: www.option-consumers.org
Site Internet: www.option-consumers.org

Table of Contents

Option consommateurs

MISSION

Option consommateurs is a not-for-profit association whose mission is to defend the rights and interests of consumers and to ensure that they are respected.

HISTORY

Option consommateurs has been in existence since 1983, when it arose from the Associations coopératives d'économie familial movement, more specifically, the Montreal ACEF. In 1999 it joined forces with the Association des consommateurs du Quebec (ACQ), which had already pursued a similar mission for over 50 years.

PRINCIPAL ACTIVITIES

Option consommateurs has a team of some 30 employees working in five departments: Budgeting, Energy Efficiency, Legal Affairs, Press Room, and Research and Representation. Over the years, Option consommateurs has developed special expertise in the areas of financial services, health, agrifood, energy, travel, access to justice, trade practices, indebtedness, and the protection of privacy. Every year, we reach 7,000–10,000 consumers directly, conduct numerous interviews in the media, participate in working groups, sit on boards of directors, carry out large-scale projects with key partners, and produce research reports, policy papers and buyers' guides, including the annual toy guide in *Protégez-vous* magazine.

MEMBERSHIP

In its quest to bring about change, Option consommateurs is active on many fronts: conducting research, organizing class action suits, and applying pressure on companies and government authorities. You can help us do more for you by becoming a member of Option consommateurs at www.option-consumers.org

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Summary

Merchants and financial institutions now offer the possibility of financing a purchase over ever longer periods. Personal loans, instalment plans, rental plans or long-term financing plans now allow consumers to make regular low payments and take up to eight years to pay for a car, four years to pay for a piece of furniture or fifteen years to pay for a pool.

By extending the term of a loan, merchants are able to attract consumers through the offer of low periodic payments. To further reduce this amount, they give the choice of making payments every two weeks or once a week rather than once a month. In their advertisements, merchants put great emphasis on the amount of the low periodic payments, while playing down essential information such as the amount of the consumer's total obligation or the total duration of the term, which are often printed in small characters or in abstruse language. Merchants attempt to convince consumers that it is sometimes less expensive to buy on credit than to pay cash, or offer bonuses if they subscribe to a financing plan. Some banks even invite consumers to buy more expensive products than they planned, by extending the term of their loan.

Our impact study shows that consumers are in general not immune to these strategies. The low amount of the periodic payment is one of the most important factors in the consumer's decisional process. Similarly, many consumers feel they would not have the means to purchase a good or service without recourse to financing; more than half of respondents even claimed that the long-term financing enabled them to buy a much more expensive product than they had originally planned. Others cited the ease of accessing credit and managing payments in their budget as the reasons why they chose long-term financing. In short, long-term financing poses risks of overconsumption and over-indebtedness.

The law, for its part, does not regulate how long a good may be financed. However, certain provisions of the laws of Canada, the United States, France and Australia offer some interesting solutions. These include mandatory information that must appear in advertisements, credit contracts and advertising standards with regard to the display of periodic payments, incentives to purchase goods on credit, the cancellation period, the option of repaying the debt at any time, and the rights guaranteed by law in the event of forfeiture of benefit of term.

These legal solutions are certainly relevant, but they seem insufficient if provisions making the lenders more responsible are not included within the law itself. Beyond setting a limit on the amortization of credit agreements, a truly effective approach toward solving the problems raised by long-term financing must involve heightening the responsibility of the lenders. In this regard, Canada could seek inspiration from responsible lending legislation passed in France and Australia.

Introduction

Instalment plans, long-term rentals, financing plans... consumers who want to buy an item on credit and pay for it in instalments have access to several financial products that allow them to do so. There's nothing new in that. What is new is that the amortization period of the loan (i.e. the length of time that the consumer can repay his debt) is now longer than ever.

Want to get a new car? Furniture? Buy a pool? If you accept a long-term credit offer, there is a good chance that you'll be able to. Especially if you subscribe to a plan that allows you to make regular low payments and take up to 8 years to pay off your car, 4 years to pay off your furniture or 15 years to pay off your pool.

Consumers are using long-term financing more and more. According to Equifax, in the last quartile of 2013, instalment loans, often tied to long-term financing plans, increased to 5.51%, and auto loans increased by 3.17%[1]. Long amortization periods also seem to be very popular. In 2013, over 62% of Canadian consumers were financing their vehicles over periods of more than 72 months[2].

In this study, we focus on credit products that enable consumers to obtain financing over a long (or very long) period. Along the way, we answer the following questions: Who are the major players in this industry? What kinds of goods and services can consumers purchase with this type of financing? Which mode of access to credit is most commonly used? We then we take a look at industry practices with regard to long-term financing.

We also examine the reasons why consumers choose this type of financing and opt for long payback periods. In particular, we ask whether this choice could lead them to spend more than they otherwise would or purchase more expensive items. Finally, we examine the risks that such products and deadlines might pose for them. In a context in which the average personal debt ratio in Canada stands at 163.7%[3], we believe it is important to pay attention to these issues.

[1] Equifax Analytical Services, *Canadian Consumer Credit Trends Q3 2013,* Equifax Canada, 2013; TransUnion: "Personal Debt Levels Rise, Though Major Canadian Metro Areas See Stabilization," November 14, 2013.

[2] J.D. Power, *Automotive Analyst Note*, November 14, 2013

[3] Statistics Canada, "National balance sheet accounts and financial flow accounts, third quarter 2013," *The Daily*, December 13, 2013. This ratio includes mortgage debt.

Methodology

For our study, we first carried out a literature search on consumer credit and, more specifically, on long-term financing. We then conducted interviews with experts Prof. Jacques St-Amant, a lecturer at the Université du Quebec à Montreal and a specialist in banking law, Mr. Philippe St-Pierre, Assistant Director, Research and Public Affairs, at CAA-Quebec and Mr. Maxime Pekkip head of prevention and support of the Regional Chamber for Social Over-indebtedness (France). The Bank of Canada also agreed to answer our questions[4].

We then took a look at the business practices involved in long-term financing. To do this, we analyzed the advertisements[5] and contracts of retailers and financial institutions that offer long-term financing (Section 2).

In order to determine the sensitivities and habits of Canadian consumers with regard to long-term financing, we also conducted an incidence survey on 874 consumers in two provinces (Section 3). In particular, we wanted to find out whether the option of long- (or very long-) term credit influences consumers' choices: are they likely to buy more (or more expensive) items than they would otherwise have done?

Finally, in order to know what legislative protection Canadians are afforded with regard to long-term financing, we studied the regulatory framework for this type of financing in Canada. We also studied the regulatory frameworks for the same type of financing in France, the United States and Australia (Section 4).

[4] The Bank of Canada replied in writing.

[5] By "advertising," we mean any representation made by a merchant.

SECTION 1 – A growing phenomenon

Buying on credit is an inherent feature of our consumer society. Since the beginning of the industrial age, consumers have relied on various forms of financing to enable them to purchase goods when they did not have enough money saved to pay for them immediately[6]. However, a very particular phenomenon has emerged in recent years: longer repayment periods for consumer loans.

The financial crisis of 2008 marked a turning point in this regard. In that difficult economic climate, some consumers had difficulty making their monthly payments[7]. Those who did have enough savings were fearful of market uncertainty and tightened their purse strings. All this was a headache for merchants who wanted to sell their products. The solution: offer very low interest rates and longer payback periods. Thanks to the smaller periodic payments, consumers could afford to buy the goods they wanted and could continue to consume by basically getting further into debt.

The automobile market followed suit, with conclusive results. The percentage of consumers who signed a credit agreement of more than 72 months to buy a vehicle rose from 30% in 2008 to 62% in 2013[8]. Long-term financing quickly spread to other goods such as trailers[9], boats[10], pools[11] and home furniture. The process was complete: real estate was no longer the only domain in which payments could be stretched out over ever longer periods of time.

A hazy new concept

While increased loan amortization is an inescapable reality, long-term financing is a concept that as yet remains undefined in the current economic literature. Before being able to study the phenomenon, we still had to determine what this term included and what it did not. It was in an interview with the Bank of Canada that we got our first helpful lead. In their view, long-term financing is "a form of consumer credit that allows the consumer to obtain goods or services and pay for them over a long period."

From this definition, let us first retain the fact that long-term financing is consumer credit used to purchase a good – repayment of which is usually made in equal instalments. The sum loaned is used to purchase a specific good and the periodic payments are used solely to repay the debt.

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[6] Joseph P. Jordan and James H. Yagla, "Retail Instalment Sales: History and Development of Regulation." (1961-1962) 45 *Marquette Law Review* 555; Jacob Ziegel, "Consumer Insolvencies, Consumer Credit, and Responsible Lending," Research Paper Prepared by Author In Fulfillment of the Lloyd Houlden Fellowship Award 2007.

[7] Jeremy Gato, "Long-term car loans: the pros and cons," *The Globe and Mail*, Toronto, July 12, 2013; Greg Keenan, "Debt-burdened Canadians succumb to lure of long-term car loans," *The Globe and Mail*, Toronto, July 22, 2012.

[8] J.D. Power *Automotive Analyst Note*, November 14, 2013; Matthew McClearn, "Driving us into debt: Long term car loans: another bubble? "*Canadian Business*, March 5, 2013

[9] For example, Desjardins offers to fund a recreational vehicle for a period up to 20 years. See: http://www.desjardins.com/fr/particuliers/produits_services/financement/automobile/termes-admissibles.pdf

[10] For example, Scotiabank offers marine and boat financing over a period of 20 years. See: http://www.scotiabank.com/ca/fr/0,,1321,00.html

[11] Again, we found financing offers for periods up to 20 years.

Such financing must of course be long term, but one would need to be very ingenious to explain exactly what distinguishes "long" term from "short" term or "medium" term. From the outset, the Bank of Canada admitted that it had not established a threshold or duration to specify what is meant by "long term." In other words, there is a great deal of subjectivity involved in the definition.

However, there are still some clues that may enlighten us. We returned our attention to our primary concern when we initiated this research: the impact of longer and longer repayment periods on consumers' behaviour and their level of indebtedness. There was one basic principle that emerged: the longer the payback period of the loan compared to the lifespan of the item whose purchase it finances, the more confidently one can say that it is long-term financing. However, since the lifetime of a good varies depending on factors such as quality and type, it is difficult to establish a common amortization period for every situation.

In this regard, the capital asset amortization parameters that the Treasury Board of Canada prescribes for businesses may be of interest[12]. According to this department, motor vehicles have a useful life of 3 to 10 years; furniture (which falls into the category "Machinery and Equipment"), 5-10 years; pools and solariums (which fall into the category "Works and Infrastructure"), 20 to 40 years; computers, tablets and smart phones (which fall into the category "Hardware"), three to five years. Although the life of a good is generally shorter than the duration of the tax depreciation, these intervals do provide credible indicators of the depreciation of the asset. Consequently, the more the financing term approaches (or exceeds) these time periods, the more we can consider it to be long-term financing.

The latter conclusion is consistent, incidentally, with what was reported to us in relation to automobiles, for which the long-term financing phenomenon is best documented[13]; this was also the type of purchase for which the highest proportion of respondents in our incidence survey obtained long-term financing (Section 3). According to Philippe St-Pierre, a spokesman for CAA Quebec, any automobile financing that exceeds the duration of the manufacturer's warranty should be considered long-term. However, since the duration of this warranty is usually 5 years, all auto financing may be considered "long term" when it persists beyond this limit – keeping in mind, however, that the life of an automobile may still vary depending on the model and the price paid.

Credit products with a "long-term" option

Several credit products make it possible to finance a product over several years. We chose to study personal loans, credit sales (fixed or variable), instalment plans and long -term rental (with or without option to purchase). We also excluded from our study credit margins and credit cards (which do not offer credit attached to the financing of a specific

[12] Treasury Board Accounting Standard 3.1 Treasury Board - Property, Canada. See: http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=12176

[13] This was mainly through reports in the media about longer and longer financing periods. For example: Pierre-Marc Durivage, "Gare au financement à très long terme," *La Presse*, March 24, 2014; Frédéric Berg, "Autos: ce qui vous attend en 2014," *Protégez-Vous*, November 2013

property) and mortgages (which, by their very nature, cannot be analyzed in the same way as other long-term financing products).

Personal loans

In its simplest form, long-term financing is a personal loan provided by a financial institution to finance a specific good over a long period. Every time the consumer makes a periodic payment, the debt is reduced. The amount paid can not be reused. The interest rate may be fixed or variable.

Credit sales (fixed or variable)

This is the method most often used to finance the purchase of furniture and household appliances, and is usually referred to as a "financing plan." Unlike the personal loan, which is granted directly by a financial institution, the financing plan is offered by a merchant in partnership with a financial institution. For example, the famous "buy now, pay later" formula is a financing plan.

Payment terms may take various forms: equal instalments (with or without interest), deferred payment or deferred payments with an interest holiday. When credit is fixed, it is a conventional financing plan. In a variable credit plan, the consumer is given a credit card with a limit in excess of the amount required to pay for the good purchased. This excess can be used to buy other goods. Every time the consumer makes a payment to repay the loan, it releases a sum that can be added to this limit.

Variable credit financing plans actually comprise two separate contracts: the sales contract and the variable credit agreement. The sales contract contains a description of the goods purchased, the price, the delivery date and the total amount payable. The variable credit agreement informs the consumer about the terms of credit, from which the consumer learns that the financing plan is accompanied by a credit card (the good purchased is paid for with this card, which has a higher limit; the unused credit may therefore be used to make other purchases). Generally, the interest rate is lower for the debt that financed the item purchased than that applicable to any other purchases made with this card.

Instalment sale

This type of plan allows consumers to obtain a product and to benefit from its possession for the entire duration of the loan. However, the creditor retains ownership of the good until the loan matures. If the consumer fails to make the periodic payments, the creditor can repossess the good in the manner prescribed by law. The consumer who buys a car from a dealer usually signs an instalment agreement.

Long-term lease (more than 4 months, with or without option to buy)

Under Canadian law, an agreement that leases a property to a consumer for a period of more than 4 months is deemed to be a long-term contract[14]. Renting has the advantage of requiring

[14] See, for example: *Consumer Protection Act*, CQLR c P-40.1, s. 150.2

lower monthly payments from the consumer than buying. When the rental comes with an option to buy, the consumer can become the owner of the item by paying the residual value at the end of the lease.

The major players

Every financial institution in Canada offers credit products that provide long-term financing. The six largest banks in Canada[15] are unquestionably the major players this market; other smaller institutions, such as HSBC and Citi, also play a role. They provide the necessary funds to finance the purchase of consumer goods both through their branches and through the intermediary of affiliated merchants or automobile dealers.

Added to these, at the provincial level, are other players such as ATB Financial, the credit unions in the various provinces, and well as the Desjardins Group. For example, the Caisses Desjardins offers Accord D financing at over 7,500 retailers in Canada[16]; this product can help finance the purchase of a good over periods of between 6 and 240 (!) months.

Also, some car manufacturers have their own financing companies. Prominent among these are Ford, Toyota, Mazda, Honda and Volkswagen[17]. They offer products with repayment periods of up to 8 years. There are also other independent financing companies, such as Ally Financial[18] and Creologix[19].

Pros and cons

With its long amortization period, long-term financing allows consumers to reduce the amount of the periodic payments they have to make to repay their debt. It gives them easier access to certain goods. Some lenders even claim that it is better to leave your money in a savings account and use credit rather than paying for the item in cash, especially if you can get financing at a low interest rate (see Section 2). Others add to this that long-term financing can sometimes be advantageous for disciplined consumers who are able to maintain the financed property in good condition until the final payment[20].

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[15] According to Canada's Office of the Superintendent of Financial Institutions*, "*Domestic Systemic Importance and Capital Targets – DTIs, "Government of Canada, March 2013, the 6 largest financial institutions in the Canadian banking system are BMO, RBC, National Bank, TD Bank Scotiabank and CIBC. For example, the National Bank does business with more than 400 retailers in Canada. During our research, we found that retailers and other merchants generally do business with these institutions.

[16] See: http://www.desjardins.com/ca/personal/loans-credit/personal-loans/accord-d-financing/index.jsp (accessed March 10, 2014)

[17] These companies are called "Ford Credit," "Toyota Financial Services," "Mazda Financial Services," "Honda Canada Finance Inc.," and "VW Finance."

[18] Ally Financial helps consumers manage their finances through an online bank or automobile finance. Its partners include GM, Chrysler, Maserati and Thor Industries Dealers (recreational vehicles).

[19] Crelogix creates funding programs for retailers.

[20] Journalist Pierre-Marc Durivage explains this as follows: "When the financing is linked to very low interest rates, such long-term arrangements can be beneficial if you intend to keep the vehicle until term. You can save the money

However, spreading the repayment of a debt over a long period does not only have virtues, far from it. First of all, any elongated repayment period will result in a higher total payment. In fact, the longer the amortization period, the greater the number of months the consumer will have to pay interest and the higher the amount paid in interest will be. For example, in order to pay off a loan of $20,000 at 3% interest, you would have to pay:

- $581,62 per month if the payback period is 3 years (total: $20,938.32);
- $359.37 per month if the payback period is 5 years (total: $21,562.20); and
- $264.27 per month if the payback period is 7 years (total: $22,198.68).

In the above case, someone who chooses a payback period of 7 years will have to pay $635.48 more than someone one who chooses to payback period of 5 years and $1,260.36 more than someone who chooses the payback period of 3 years.

Paying more interest is not the only issue raised by a long repayment period. The longer the term, the greater the risk that the consumer will have to dispose of the property before the end of the financing period. In this case, he will continue to pay for something he no longer has. Worse, if he has to replace it, it may have to repay two loans at once even though he has only one of the financed property in his possession.

The length of the term of a loan also increases the risk that the consumer will end up with a debt that is greater than the value of the financed property. When the long-term financing is accorded for an item with a high depreciation rate[21], such as an automobile, it may well be worth less after a few years than the amount left to pay. This situation is called "negative equity," previously encountered mostly in the real estate domain.

The smaller periodic payments made possible by long-term financing permit easier access to credit, thereby exacerbating the problems of overconsumption and other debt-related problems. For consumers, the temptation to buy something they do not really need may be too great, especially if for only a few dollars more per month, they can get a much more expensive article than they originally planned – and thus end up consuming beyond their means. However, these very options are suggested to consumers in the marketing strategies used by retailers and even financial institutions (Section 2); this is especially worrying since 54% of respondents to our incidence survey admitted that access to long-term financing had enabled them to buy a more expensive article than planned (Section 3).

Consequently, the risk of over-indebtedness also goes up. No longer able to meet their payment obligations, consumers may end up in serious debt, which they will have to get into more debt to pay off. Considering the level of runaway debt of Canadians and how little savings they have[22], increasing their total obligations, even with lower periodic payments, renders them more vulnerable to unexpected situations such as a job loss, illness, separation or rising interest rates.

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saved in interest by letting it grow in an RRSP or TFSA, for example." See: Pierre-Marc Duyrivage, "Gare au financement à très long terme," *La Presse*, March 24, 2014.

[21] The term "depreciation" means an impairment of an asset over time.

[22] See in this regard: CGA-Canada, *Money Talks: Emphasizing Wealth in Household Finances*, 2013.

SECTION 2 – A look at the commercial practices

Since their aim is to get consumers to buy, offering long-term financing is a favoured tactic by retailers who want to boost sales. This is a strategy that works. 46% of respondents to our survey said they would not have been able to buy the property they did if they had not had access to long-term financing (see Section 3).

Consequently, we are primarily interested in the advertising techniques used by retailers who offer long-term financing for the goods they sell[23]. We also examined the representations of financial institutions that offer personal loans and long-term auto loans. Finally, we also studied a number of long-term financing agreements.

To identify the techniques used by retailers, we conducted a qualitative analysis of advertisements published in newspapers and on the Internet. In the first three months of 2014[24], we systematically perused the pages of each of the four largest dailies in Canada[25]. In these newspapers[26], we identified a total of 26 long-term financing advertisements that featured furniture, electronics, and especially automobiles[27]. However, since we noted in our contacts with consumers that long-term financing was also a common practice in selling swimming pools and recreational vehicles, to complement our sample, we also consulted circulars posted online and the websites of retailers advertising such products[28].

We went to the websites of financial institutions offering long-term personal and automobile loans to collect samples of their representations. We consulted the websites of the six largest banks in Canada: National Bank, Scotiabank, TD Bank, CIBC, the Bank of Montreal and the Royal Bank. We also consulted the website of the Desjardins Group, in Quebec.

[23] We focused particular attention on companies offering cars and commercial vehicles, recreational vehicles, furniture and appliances, electronics and swimming pools.

[24] We took care to select ads during the month of March because that is a time when car sales are in full swing and long-term financing is being widely promoted. Incidentally, the issue of *La Presse* on March 17, 2014 contained an ”Auto” brochure.

[25] Every day, we studied the dailies with the largest circulation in Canada: the *Toronto Star*, *The Globe and Mail*, *Le Journal de Montreal* and *La Presse*. See: Newspapers Canada, 2012 *Daily Newspaper Circulation Report,* 2013.

[26] The specimens analyzed were: *La Presse* January 31, 2014, of February 13, 2014 and March 17, 2014; *Journal de Montreal* of January 30, 2014 of February 28, 2014 and March 17, 2014; the *Toronto Star* of January 30, 2014, of February 13, 2014 and March 6, 2014; *The Globe and Mail* of January 31, 2014, February 28, 2014 and March 5, 2014. It should be noted that we did not identify any advertising of long-term financing in the *Globe and M*ail. This can be explained by the fact that its ads were mostly for luxury goods that did not include any information on financing.

[27] We selected automobile advertisements that offered a term of more than 5 years. For furniture and electronics, we selected those that offered a term of 3 years or more.

[28] In particular, we consulted advertising content posted by Club Piscine, Trevi, Aqua Master, Vellner Leisure, Leisure Trailer Sales, Roulottes AS Lévesque and Centre de la roulette 1444. We also randomly consulted the sites of other types of retailers, primarily automobile dealerships.

Smaller payments, more often

In recent years, the amortization periods available to consumers has increased considerably. In the ads that we studied, we found financing offers of up to 50 months for furniture[29], 96 months for automobiles[30] and 20 years for swimming pools[31]. The Brault & Martineau ad below (Fig. 1[32]) gives an example.

Fig. 1: Brault & Martineau advertisement for a television

The consumer who accepts this financing offer will have to make monthly payments of $14.98 for a little over 4 years (50 months) to pay for this TV.

Obviously, the longer the payback period, the smaller the periodic payment. To ensure that the payments are even smaller, retailers increase their frequency. Rather than asking for monthly payments, they offer the consumer the possibility of making payments every two weeks or once a week, which has the effect of reducing the amount they have to pay each time. The Trévi (Fig. 2[33]) and Leisure Trailers Sales (Fig. 3[34]) ads illustrate this trend very clearly.

[29] This was a Brault & Martineau ad published in *La Presse* on Jan. 31, 2014.

[30] This a Dodge advertisement published in the *Toronto Star* on February 13, 2014.

[31] This information was found on the Aqua Master website: http://www.aquamastergroup.com/financement.php (consulted on September 28, 2013)

[32] This advertisement appeared published in *La Presse* on January 31 2014.

[33] This ad was published in a 2014 flyer.

Fig. 2: Trévi advertisement

Consumers who accept this financing offer for a spa/pavilion set will have to make payments of $29.99 a week for 10 years to pay it off.

Fig. 3: Leisure Trailer Sales advertisement

Here again, the retailer offers consumers who wish to purchase a recreational vehicle the option of making weekly payments. Neither the total price of the vehicle nor the financing term are mentioned in the advertisement.

Focus on small payments

Looking at the last two advertisements (Figures 2 and 3), we note that the periodic payment is clearly visible while other important information is less prominent. Consequently, the consumer who is interested in the Trévi ad (Figure 2) will have to go the end of the flyer to discover that

[34] Flyer published on the website of Leisure Trailer Sales (Sellers of recreational vehicles and accessories in Windsor, Ontario), September 21, 2013 at http://www.leisuretrailers.com/new-used-rv-dealership-ontario/2013/09/

the entire spa and pavilion set, advertised at $12,999, will cost an extra $4,220.22 in credit charges.

It was the same story at Club Piscine: the consumer who wants to benefit from the low-cost financing plan in the ad has to go to the end of the flyer to find out the total amount of his obligation (see Fig. 4[35]).

Fig. 4: Club Piscine advertisement for an in-ground pool

Club Piscine offers the consumer an in-ground pool "for only" $69.99 every two weeks for 15 years. The purchase price of the item is $15,399. To find out the total amount that will actually have been paid after 15 years, the consumer has to go to last page of the circular, where this information appears in a table. Invoice: $27,225.21 (i.e. 11,855.22 in credit charges).

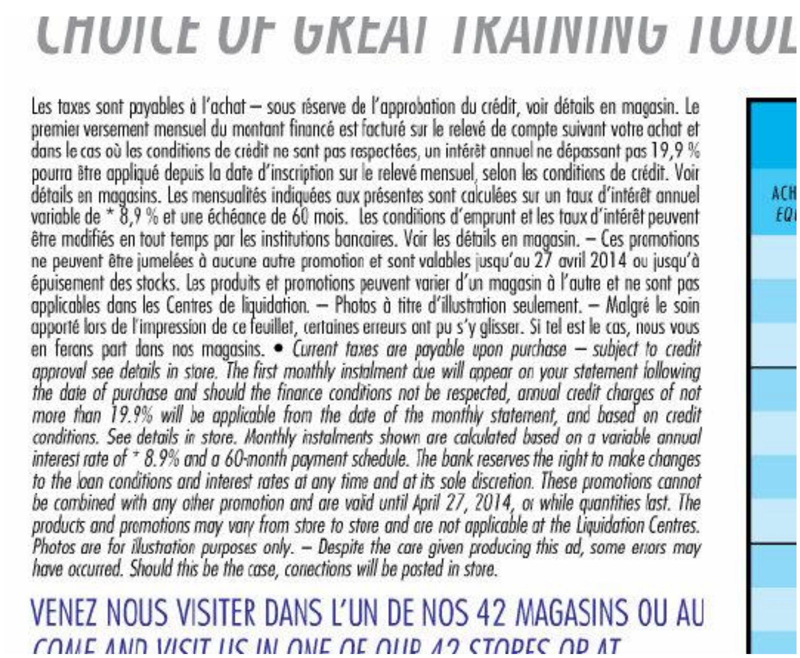
[35] This ad appeared in a Club Piscine flyer in early 2014

Tough to figure out

In most of the advertisements we saw, the financing period is expressed in numbers of months, which can be difficult to understand for consumers with low literacy. We should remember that over 40% of Canadians have low literacy and numeracy skills[36].

Similarly, in advertisements published in newspapers[37] and flyers, it is common for additional information to be printed in small characters and placed at the bottom or in the margin of the ad. This makes grim reading for any consumer: often, the small size and/or the colour of the characters makes the text difficult to read (see Fig. 5). On top of that, the large amount of information included and the vocabulary used makes it even more difficult to understand.

Fig. 5: Small print at the end of the Club Piscine flyer


Les taxes sont payables à l'achat – sous réserve de l'approbation du crédit, voir détails en magasin. Le premier versement mensuel du montant financé est facturé sur le relevé de compte suivant votre achat et dans le cas où les conditions de crédit ne sont pas respectées, un intérêt annuel ne dépassant pas 19,9 % pourra être appliqué depuis la date d'inscription sur le relevé mensuel, selon les conditions de crédit. Voir détails en magasins. Les mensualités indiquées aux présentes sont calculées sur un taux d'intérêt annuel variable de * 8,9 % et une échéance de 60 mois. Les conditions d'emprunt et les taux d'intérêt peuvent être modifiés en tout temps par les institutions bancaires. Voir les détails en magasin. – Ces promotions ne peuvent être jumelées à aucune autre promotion et sont valables jusqu'au 27 avril 2014 ou jusqu'à épuisement des stocks. Les produits et promotions peuvent varier d'un magasin à l'autre et ne sont pas applicables dans les Centres de liquidation. – Photos à titre d'illustration seulement. – Malgré le soin apporté lors de l'impression de ce feuillet, certaines erreurs ont pu s'y glisser. Si tel est le cas, nous vous en ferons part dans nos magasins. • *Current taxes are payable upon purchase – subject to credit approval see details in store. The first monthly instalment due will appear on your statement following the date of purchase and should the finance conditions not be respected, annual credit charges of not more than 19.9% will be applicable from the date of the monthly statement, and based on credit conditions. See details in store. Monthly instalments shown are calculated based on a variable annual interest rate of * 8.9% and a 60-month payment schedule. The bank reserves the right to make changes to the loan conditions and interest rates at any time and at its sole discretion. These promotions cannot be combined with any other promotion and are valid until April 27, 2014, or while quantities last. The products and promotions may vary from store to store and are not applicable at the Liquidation Centres. Photos are for illustration purposes only. – Despite the care given producing this ad, some errors may have occurred. Should this be the case, corrections will be posted in store.*

VENEZ NOUS VISITER DANS L'UN DE NOS 42 MAGASINS OU AU

This is not easily accessible, yet the information it contains is often very important. For example, in the Trévi ad, the credit charges and the total amount to be paid appear on the last page of the flyer, in very small print. In the Brault & Martineau ad (Fig. 1), the statement that one needs to make a purchase of a certain minimum amount to be eligible for a financing plan is in small print.

[36] Statistics Canada, *International Adult Literacy and Skills Survey*, 2005

[37] 37. In advertisements viewed on *La Presse +*, the legal information is contained in a tab that the reader can click on at will, thus making it easier to read. However, one may wonder whether most readers would take the trouble.

Catchy slogans

"Buy now, pay later!" "Make your dream a reality ...![38]" , "The 2014 Jetta costs as little as $6 per day. So if you bring your lunch to work, you can afford a Jetta.[39]" Companies use scores of catchy slogans such as these to get consumers to opt for long-term financing.

They also have persuasive arguments. For example, some even suggest that people who can afford to pay cash would benefit from leaving their money in the bank and opting for long-term financing. This, for example, is what Vellner Leisure Products, a company that offers recreational vehicles, argues:

> *There are Real reasons Dealer Plans Loans Are recommended.*
>
> *Let's say you want to buy an RV, you have the cash (you've been saving forever), or you'll have the finances available when you need them.*
>
> *What if you put those finances into an interest earning account or even a savings account? What if they are already in an account earning you money?*
>
> *Did you know at the end of your dealer finance agreement you will still have your savings (quite possibly more with interest) and an RV that is paid for! So that money you have worked so hard to save is still intact and available to you for emergencies or anything else you may want.*
>
> *When you pull money out of your investments there is also a risk of losing out on investment opportunities and there may be costly penalties and tax adjustments for cashing out early.*[40]

Similarly, several 2nd or 3rd chance financing offers by car dealers suggest to consumers that relatively low monthly payments allow them not only to have access to credit, but also to clean up their credit history. An instance of this tactic appears in an offer made by Fortier Auto Credit, which states:

> [TRANSLATION] *Difficult credit records are often refused because car dealers do not want to take the time necessary to make them eligible. With Fortier Auto Credit, you get the best alternative second chance credit in the industry! We give our customers a second chance that enables them to obtain good auto financing. At Fortier Auto Credit, there's no judgment, just efficiency. We will establish your monthly payments over a longer term to give you the flexibility of a small, affordable monthly payment. When you have completed 2 years of restored credit, we will offer to refinance your loan at a lower rate of interest, or, if you wish, to purchase a new vehicle. At Fortier Auto Credit, we are dedicated to helping you rebuild your credit within a maximum of 2 to 3 years*[41].

[38] See Roulottes A.S. Lévesque at: http://www.roulotte.ca/en-CA/services/financing

[39] In fact, a Volkswagen ad declares that it is possible to get a Jetta for the equivalent of $6 per day. See:: https://www.youtube.com/watch?v=zQqMUxLYKFA

[40] See: http://www.vellner.com/Finance/Helpful-Finance-Information/Finance-vs-Cash.aspx

[41] See: http://www.fortierautocredit.com/2e-chance-au-credit/

Merchants also offer consumers gifts to encourage them to choose long-term financing. There may be a discount on the first payments (Fig. 6[42]), a payment holiday for a certain period (Fig. 7[43]), or even a gift card (Fig. 7).

Fig. 6: Kia advertisement

This Kia advertisement offers a reduced payment of $96 every two weeks for the first 15 months of the financing plan. Consumers have to read the fine print to find out the total duration of the financing plan: if they accept the proposed offer, they will be making payments every two weeks for 7 years... at end of 15 months, this payment goes up to $143.

[42] This ad appeared *Le Journal de Montréal* March 17, 2014.

[43] This ad appeared in a flyer in 2014.

Fig. 7: Trevi Advertisement

This Trévi ad offers consumers both a payment holiday and a gift card to buy other items.

Finally, several companies also have certain specific facilities for customers who are interested in long-term financing. For example, they will be asked to fill in a questionnaire online in order have their credit pre-approved[44].

Offers by financial institutions

Financial institutions also publicize their products to consumers by offering to finance their purchases with a long-term personal loan. They state that loans of this type can be granted to finance a car, furniture, recreational equipment, a boat, etc. For automobile purchases, several institutions even offer a personal loan specifically designed for this type of purchase: the "auto loan."

Of course, every personal loan taken out to finance a purchase is not automatically classifiable as "long-term financing." In the absence of a specific offer, this can only be evaluated on a case-by-case basis, depending on the amortization period of the requested loan and the type of item financed. Despite this limitation, we nonetheless consulted the websites of the six major

[44] See, for example, Trévi at: http://www.trevi.com/english/Financing/index.aspx; Trailer Centre 1444 at: http://www.centre1444.com/financing/index.htm?locale=en_CA

Canadian financial institutions[45] and the Desjardins Movement to find out what kind of representations they make about the financing they offer – especially the ones concerning the length of the payback period. In many cases, we found these to be similar to the ones made by retailers.

For example, many financial institutions also sell the dream. The slogans they use are revealing: "A personal loan can help your plans jump off the drawing board and become a reality[46]," "a personal loan from RBC Royal Bank® is a convenient way to finance your goals[47]," "Whatever you need, a BMO Personal Loan can help you get it. It's perfect for virtually any type of need[48]."

Like the retailers, financial institutions often emphasize the periodic payments over the total amount to be repaid. Accordingly, on the TD Canada Trust bank website, consumers are given the option of adapting their payments to their budget and are even provided with a calculator to help them do so. However, it omits to tell them that by making payments over a longer period, they will pay more in finance charges:

> *You can also choose from a wide range of repayment periods, to make the payments fit your budget – the longer the term, the lower your monthly payments.*[49]

For automobile purchases, the same bank will invite consumers to extend the term of their loan to enable them to buy a more expensive car:

> *Lower your monthly payment on the new or used vehicle you want. Our auto financing may be just the personal credit option for you. Or, purchase a more expensive vehicle without increasing your monthly payment. Choose a 6- or 7-Year Auto Loan and benefit one way or the other*[50]*.*

National Bank makes a similar invitation:

> *Take up to eight years to pay back your loan. Take advantage of this extended repayment period to choose a vehicle model or optional features that meet your needs, like extra cargo space or a more energy-efficient car*[51].

In sum, we find that financial institutions directly promote prolonged terms to consumers; in some cases, they even encourage them to purchase a more expensive item by financing it over a longer period.

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[45] As mentioned earlier, we used the classification of the Superintendent of Financial Institutions Canada, *Domestic Systemic Importance and Capital Targets – DTIs*, Government of Canada, March 2013, which determines that the six most important financial institutions in Canada are BMO, RBC, National Bank, TD Bank, Scotiabank and CIBC.

[46] This sentence was found on the National Bank website at: http://www.nbc.ca/en/personal/financing/personal-loans-lines-of-credit/personal-loans.html

[47] See: http://www.rbcroyalbank.com/personal-loans/personal-loans.html

[48] See: https://www.bmo.com/home/personal/banking/loans-loc/loans/personal-loan

[49] See: http://www.tdcanadatrust.com/products-services/banking/personal-credit/loans.jsp

[50] See: http://www.tdcanadatrust.com/products-services/banking/personal-credit/products.jsp

[51] See: http://www.nbc.ca/en/personal/financing/personal-loans-lines-of-credit/car-loans.html

Some long-term financing agreements

For the purposes of this research, we collected a number of financing agreements from consumers who had contacted Option consommateurs. A dozen of these agreements specified sufficiently long amortization periods, given the item purchased, for us to consider them "long-term" financing agreements. For example, one of the auto car agreements[52] was for 96 months and one of furniture agreements[53] was for 48 months.

The agreements were for three categories of goods: automobiles, furniture and electronics. The financing provided was in the form of credit sales, instalment plans and long-term rentals.

It must be said right away that the analysis of these documents was not very revealing. In fact, the financing agreements used are the same, irrespective of the length of the financing period. This is a standard (identical) form in which the credit provider or merchant enters data such as the amortization period, the number of payments, the item sold or rented and the credit rate.

Retailers in fact typically use standardized documents designed for several situations at once. Often these standard contracts contain clauses that are unrelated to the financing for which the consumer is signing, which merely make the reading more tedious. For example, in one auto financing agreement, we found provisions related to the purchase of a mobile home.

Anyone who reads a long-term financing agreement might find it difficult to understand their obligations. As with many adhesion contracts, most of these agreements are difficult to read, since they employ legal vocabulary and are often printed in small characters. Also, some contracts are up to eight pages long, which makes the prospect of reading them all the more daunting. Another observation: in instalment plan agreements, the reserve of ownership is often found in the very last pages of the document. However, this clause is very important to the consumer, since it states that the item is theirs only when the entire debt has been paid.

[52] Girard Automobile instalment plan agreement financed by BMO

[53] Mobilier 3690 instalment plan agreement

SECTION 3 – Long-term financing and the consumer

In order to ascertain the sensitivities and habits of consumers with regard to long-term financing, we conducted an impact survey. More specifically, we wanted to know the characteristics of the financing they had agreed to or intended to agree to. This made it possible to assess their habits, on the one hand, and the impact of the offer on the other. In addition, we wanted to know if consumers had bought a far more expensive item than they had planned, due to the long-term financing. Finally, we wanted to gauge consumers' perceptions about the ideal length of financing for certain goods.

Methodology and administrative basis

An online survey was conducted from November 12 to December 11, 2013. The questionnaire lasted an average of 11 minutes[54]. In Quebec, the participants were selected by telephone, at random, from a panel provided by[55] Bureau des Interviewers Professionnels (BIP) located in Montreal. In Ontario, the invitation was sent to all the members of a panel[56].

In total, 3,985 individuals were contacted and 874 answered the questionnaire. Of the 3,985 people forming the initial sample, 3,111 did not meet the selection criteria, namely making a major purchase[57] in the last 12 months or intending to make such a purchase in the next 12 months using financing.

Administrative basis is in the following table:

Sample 3985				
	Quebec	2377		
	Ontario	1608		
Ineligible				
	Quebec	1945		
			Did not or do not intend to make major purchase	959
			Never used long-term financing	986
	Ontario	1166		
			Did not or do not intend to make major purchase	411
			Never used long-term financing	755
Eligible				
	Quebec	432		

[54] The minimum duration was 5 minutes, the maximum, 41 minutes

[55] This means that the invitation was sent to some panel members selected at random.

[56] In this case, the first respondents who qualified for the study selected after answering the filter question.

[57] These included cars, appliances, furniture, eyeglasses, electronics, etc.

	Used long-term financing in the past		232
	Will use long-term financing in the future		200
	BOTH	29	
	One **OR** the other	403	
Ontario	442		
	Used long-term financing in the past		226
	Will use long-term financing in the future		216
	BOTH	42	
	One **OR** the other	400	

There were thus 71 respondents (8%)[58] who had both used long-term financing and intended to do so again. It should be noted that no one refused to answer because of the nature of the selection mode (panel)[59]. Since the Quebec selection was random and the database is representative of the population, it is possible to calculate a margin of error of ± 5%[60] 19 times out of 20[61]. For Ontario, the margin of error would be the same if the sample had been random.

The impact on the use of long-term credit is 18.2% in Quebec and 27.5% in Ontario[62]. As we shall see later, there is a link between the type of good, the amount of the purchase and use of long-term financing.

Analysis of results

The survey results show quite clearly that there is a difference both in consumers' attitudes and behaviour[63] depending on their region of origin and type of purchase. The results were analyzed mainly on the basis of two specific points: the type of purchase and the reasons for the use of credit[64].

Type of purchase

Automobiles (51%), furniture (14%) and appliances (12%) are the three main purchases mentioned by respondents. These three types of purchase usually entail a major expense and

[58] The percentages have been rounded.

[59] The people who agreed to participate in a panel undertook to answer all the questionnaires.

[60] The percentages have been rounded for the whole of this section.

[61] This percentage applies to the percentage of results obtained.

[62] These results were obtained by dividing the number of users by the total number of contacts. Quebec (403/2348 = 17.1%) and Ontario (400/1566 = 25.5%). Figs. 400 and 403 show the number of people who reported using or planning to use long-term financing.

[63] Here we consider that attitude corresponds to perception and behavior to action (whether the respondents have used long-term financing or intend to do).

[64] Which partially explains the regional differences.

have a relatively long life expectancy, which justifies the consumers' choice of long-term financing. This is consistent with the promotions we analyzed[65].

Distribution of the three main items purchased

The following table gives an indication of the relative importance of three main items purchased or intended to be purchased using long-term financing[66].

	1st mention[67]	Total mentions[68]
Vehicles	50.7%	58.1
Furniture	14.4%	31.7
Appliances	11.6%	22.5

For example, nearly 51% of eligible respondents said they had bought or intended to buy a car.

The incidence survey shows that people who intend to purchase furniture or appliances are very likely to consider long-term financing. This finding is not surprising given the availability of financing in the various advertisements that we consulted featuring these and other products.

Payment method

Just under two thirds (64%) of consumers surveyed had used a financing plan[69] for a major purchase while fourteen percent (14%) paid for their purchase in cash. We find the same percentage (14%) for credit cards (they used this type of card to pay for part of their purchase, e.g. the deposit). Personal loans and personal lines of credit accounted for 13%. The financing plan therefore plays an important role in the purchase.

The reasons for using financing

We asked consumers to identify the three main reasons for their decision to use a financing plan.

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65 The survey shows, however, that there is a statistically significant difference between respondents in Quebec and Ontario concerning their intention to use long-term financing for other goods or services (travel, electronics, glasses, etc.). The regional variable is an important element in the use of long-term financing. This difference resides essentially in the reasons given by consumers for using credit as a method of financing..

66 The allocation of the notion of long-term financing is an amalgam of several responses by consumers (property type, payment method, amortization period, etc..)..

67 First mentioned in response to the question:"What product did you buy?".

68 Mentioned in response to the question:"What products did you buy?"Here, they could name up to 4 products.

69 The total is higher than 100% because the respondents were able to mention more than one payment method. Some consumers combined several modes of payment in the same purchase. For example, when buying a car, the deposit can paid by credit card and the balance by financing plan.

Reasons	First reason	Index of mentions[70]
Interest rate	51%	802
Amount of payment	30%	651
Length of financing	7.5%	424
Amount of purchase	8%	265

Offering an attractive interest rate was the main reason (51%) given. More specifically, the interest rate was mentioned by 83% of respondents (1st, 2nd or 3rd mentions). Amount of payments came in second with 30% of first mentions and 77% total mentions. Length of financing came in third place with 65% of total mentions. Finally, the amount of the purchase was reported by only 38% of consumers in total.

The results clearly show that the attractiveness of the interest rate and the amount of the payment are sensitive points in the consumers' decision-making process. It is therefore not surprising to find these points emphasized in advertisements. This confirms the commercial approach to consumers, emphasizing offers that exploit the lowest common denominator in payment terms – for example, bi-weekly payments that allow consumers to calculate on the basis of their salary. As for interest rates, the attractiveness of low rates, including promotions at 0% interest, is a particularly important factor.

Finally, 37% of consumers believed that a financing plan makes it easier to manage their budget and 23% believed they would not have had the means to afford the item without the help of financing.

Furthermore, the main reason (first mention) given to explain the choice of a type of financing was access[71]. In fact, 46% of respondents gave this reason. However, the attraction of low interest rates cannot be overlooked; 48% of respondents cited it as the main factor in their choice of a type of financing. The respondents also named interest-free payments (46%) and 0% interest (41%) as important factors in their decision-making process. As the table above shows, when analyzing the index entries, length of financing is much more decisive than amount of purchase.

Amount of purchase

It is not surprising that the more expensive the item, the greater the need for financing. The tipping point for choosing financing, whatever the time involved, is for purchases of over $2,000. Most of the amounts financed were over $10,000; $14,000 on average. Ten percent of the people still financed purchases under $2000.

[70] The index takes into account the first, second and third reasons given, to which we assigned a value of 3 points, 2 points and one point respectively.

[71] The question was,"In order of importance, what factors did you take into account when choosing your financing?"

Costlier items

It is important to note that 54% of our respondents said that access to long-term financing enabled them to buy a more expensive item than they had planned, despite the fact that 46% said that initially, they could not purchase the item they wanted without long-term financing.

Staggered payments

The payment periods (less than 24 months, between 24 and 48 months and 48 months) were spread out fairly uniformly, with roughly one third of respondents located in each. The distribution, of course, depended on the type of purchase and the amount of the financing.

In addition, the respondents felt that the ideal period is 57 months[72] to buy a car, 21.5 months for furniture and 23.3 months for electrical appliances.

Use may be habit-forming

More importantly, 46% of respondents stated that the main reason for having their purchase financed was the ease of obtaining credit. In addition, for 37% of those who chose financing, this was not their first experience. The influence of parents and friends does not seem to have an impact on the decisional process. The respondents also said they did not feel influenced by advertising. However, this last point deserves to be validated in a qualitative way.

Motivations

Equal instalments with low interest (48%), interest-free payments (46%) and 0% interest (41%) are the main factors in the decision to purchase.

64% of consumers responded that that their purchase was made using a financing plan.

In total, 84% of respondents considered themselves to be sufficiently informed about the specifics of their long-term financing. However, nearly half said they had no information about the consequences of non-payment or about retention of ownership.

Nearly half of consumers (46%) said they would have been unable to make the purchase without long-term financing and 54% said that financing allowed them to buy a much more expensive item.

Finally, just over a quarter of respondents said they would be likely to buy a much more expensive article if the payments were the same, but extended over a longer period.

[72] Standard deviations for the three types of item are quite wide (17.2 for cars, 15.9 for furniture and 18.5 for appliances respectively). This points to a wide variation in the assessment. Since the coefficient of variation (CV) for the three goods is over 30% these averages must be interpreted with prudence. This indicates that most consumers do not agree on the ideal time periods.

Summary

These were the main findings of our investigation. We should nonetheless emphasize that consumers who only intended to make a purchase are slightly more conservative regarding the possible use of financing than those who actually made a purchase.

A significant proportion of consumers use long-term financing to procure more expensive goods than they originally intended. Manageability of payments is without a doubt the factor that encourages consumers to spend more than they intend.

SECTION 4 – In search of legal solutions

To find out what legal solutions exist in Canada and elsewhere with regard to the issues raised by long-term financing, we studied the legislative framework of long-term credit in Canada (and Quebec), the United States, France and Australia. We focused mainly on rules related to advertising and to the provision of consumer credit.

In the United States, consumer credit is regulated at the federal level by the *Truth in Lending Act* (TILA) and *Regulations Z*[73] and *M*[74]. The *TILA* lays down various obligations to provide information that will permit consumers to compare the various sources of credit[75].

France's *Code de la consommation* regulates credit transactions between professionals (merchants) and individuals for their personal or family needs. The *Code* is only applicable to transactions up to a maximum of €75,000.

In Australia, the responsibility for regulating consumer credit lies with the Commonwealth (the equivalent of the federal government in Canada). The *National Credit Consumer Protection Act* (*NCCPA*) sets forth the main principles for granting credit, such as the obligation to lend responsibly and the information that must be disclosed. It is divided into two parts: the law itself, which sets forth guidelines and the *National Credit Code* (NCC), which regulates actual practice[76]. The *NCC* defines, among other things, what a credit agreement is, regulates advertising, determines interest rates and many other aspects concerning disclosure of essential elements of the credit agreement.

Periodic payment advertisements

In the advertisements we analyzed, we remarked that the emphasis was often placed on the amount of the periodic payment rather than the total amount payable. This strategy is not surprising: as the incidence survey revealed, the size of the periodic payment is one of the elements that most influences a consumer's decision to subscribe to a financing plan. Some consumers go as far as to say that they are even likely to buy a more expensive item if the periodic payment stays the same. However, the corollary of this advertising strategy is that other important information, such as the total price payable or the financing period, is de-emphasized.

In Quebec, however, the *CPA* strictly regulates how periodic payments may be reported. In fact, it is illegal to advertise the amount of the periodic payment without also stating the total price of the good or service sold[77]. It is also forbidden to give the periodic payments more emphasis

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[73] 12 *CFR* 226 § 226.1 c)

[74] 12 *CFR* 213. This regulation follows the same general lines as Regulation Z, but relates to long-term leasing.

[75] 15 U.S.C. 41 § 1601.

[76] Gail Pearson and Richard Batten, *Understanding Australian Consumer Credit Law – A Practical Guide to the National Consumer Credit Reforms,* Sydney, CCH Australia Limited, 2011, p.22

[77] *Consumer Protection Act,* RSQ, c. P-40.1, s. 224 b)

than the total price[78]. It is clear in the ads mentioned above (Section 2) that this obligation is not always scrupulously respected.

Other countries also offer solutions to help consumers better understand their obligations with regard to lenders' offers. For example, French law requires the creditor to include a representative example in any advertisement offering a credit option[79]. The total amount due, for example, must be in a larger font size than any other information related to the financing details and be included in the main body of the text of the advertisement[80]. In the United States, any advertisement for a fixed amount of credit must state the number of periodic payments, their amount and their frequency; the amount must reflect the obligations that the consumer has to comply with for the duration of the contract[81]. In Australia, when an advertisement states that periodic payments may be made, it must also state the rate of credit[82]. However, there is no requirement to indicate the number or amount of payments.

Information on credit and small print in advertisements

In Canada, all advertising on credit must contain a certain amount of mandatory information to help consumers make informed choices. For instance, an advertisement for a loan of a fixed amount that states the interest rate or the amount of each payment must also state the annual percentage rate (APR) and the duration of the loan[83]. The APR should be presented in the same manner as the other information and be given the same importance[84]. When multiple loans are presented that do not have the same APR or are of a different duration, an example of a representative loan must be given[85], not just the option that seems most attractive from the consumer's point of view.

In Quebec, only advertisements specifically relating to credit or credit terms are allowed to present additional credit-related information. In such cases, they must be accompanied by other indissociable information: the disclosure of one information item automatically entails disclosure of the others[86]. These include the total credit charges, the number and duration of payments, the amount of each deferred payment, the minimum required payment for each period, the consumer's total obligation and an array of examples of credit charges payable[87].

[78] *Id*.

[79] *Code de la consommation,* Art. L311-4

[80] *Code de la consommation,* Arts. L311-5 and D311-1 (III)

[81] 12 *CFR* 226, § 226.16

[82] *National Consumer Credit Protection Act 2009* - Schedule 1 *National Credit Code* (Cth.), s. 150 (3)

[83] *Regulation on the Cost of Borrowing, SOR-2001-101,* s. 19

[84] *Bank Act,* L. C. 1991, c. 46, s. 453; *Regulation on the Cost of Borrowing,* SOR-2001-101 (2011), s. 19

[85] *Regulation on the Cost of Borrowing,* SOR-2001-101, s. 19

[86] *Consumer Protection Act,* RSQ, c. P-40.1, s. 245-247*; Regulation Respecting the Application of the Consumer Protection Act, CQLR c P-40.1, r 3,* c. P-40.1, r 3, ss. 81-86; Elise Thériault, , "La publicité sur le crédit et les défis de l'encadrement législatif," in *Actes du colloque de la Fondation Claude Masse: La publicité, armes de persuasion massive: les défis de l'encadrement législatif,* Éditions Yvon Blais, 2011, p. 47 and following

[87] *Regulation Respecting the Application of the Consumer Protection Act,* CQLR c P-40.1, r 3, ss. 84-86

Such mandatory disclosures can be found in all the countries studied[88]. These disclosures help consumers to better gauge the extent of their obligations in matters of long-term financing. In Canada, however, there are no rules regarding the size, legibility and prominence of such mandatory disclosures, except that advertisements of more than one page informing consumers about credit terms must, in the place where the announcement is made, clearly specify the page on which the prescribed terms appear[89].

In fact, the current situation – the use of lowercase, technical vocabulary, heavy text, etc. – often renders the disclosures ineffective. This problem was already pointed out in 2011 in a report by Option consommateurs entitled *Financing plans offered by furniture and appliance retailers: Analysis of information given to consumers*[90]. It is clear that the situation has not changed since.

It is generally recognized, however, that the following readability guidelines must be observed if the phenomenon of reader blindness is to be avoided:

- Each paragraph should contain a single idea;
- A paragraph should contain a maximum of 5 to 6 sentences;
- Sentences should be short and contain only 15 to 20 words;
- There should be a maximum of one hundred characters per line;
- The text should not be overburdened with punctuation (parentheses, brackets, commas, semicolons, dashes, etc.)[91].

In this regard, the French solution may provide some inspiration: in fact, as mentioned earlier, the French consumer code (*Code de la consommation*) stipulates that, in any advertisement, all mandatory information (including the total obligation of the debtor) must be printed in a size larger than that used for any other information concerning the financing details and must appear in the main body of the text[92]. In other words, the required information may not be included in small type in the margins of the advertisement.

At present, none of the jurisdictions we studied have enacted rules intended specifically to regulate the content of retailers' websites, which are generally accepted as constituting advertising. The same rules therefore apply to online advertisements and agreements as to physical advertisements and agreements. Also, because websites can contain a large number of pages, it is often easier to disseminate information through this medium.

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[88] For example, in France, under Article L311-4 of the *Code de la consommation,* any advertisement involving a credit transaction, regardless of its form, shall contain at least the following information: the total amount of the credit, the annual percentage rate (APR), the duration of the credit agreement, the total amount owed by the borrower and the amount of the instalments.

[89] *Regulation Respecting the Application of the Consumer Protection Act,* CQLR c P-40.1, r 3, *s*.83

[90] Option consommateurs, *Financing plans offered by furniture and appliance retailers: Analysis of information given to consumers*, Report presented to Industry Canada's Office of Consumer Affairs, 2011

[91] *Id*., p. 74

[92] *Code de la consommation,* Arts. L311-5 and D311-1 (III)

Selling dreams

The advertisements we analyzed often emphasized the ease of obtaining credit (2nd and 3rd chance, no credit check, etc.) or the ability to obtain expensive goods instantly. In short, credit is dangled before consumers as a simple solution to all their problems. Sometimes they are even offered rewards or incentives such as payments holidays. Consumers are not immune to these tactics: according to our incidence survey, the main reason given for choosing long-term financing was ease of access.

However, there are provisions in Canadian laws against some of these practices. In Quebec, for example, it is prohibited in any advertisement involving credit, to encourage consumers to use credit to purchase goods or services, or simply to illustrate these goods or services[93]. Similarly, an advertisement for a good or service may not refer to an offer of credit other than by mentioning the name, trademark or corporate symbol of a retailer who concludes credit agreements, or by the use of the terms “credit offered,” “credit accepted,” “credit available,” or by an illustration of a credit card[94]. This list is exhaustive.

The same is true in France, where it is forbidden to state in an advertisement that a credit transaction or agreement can be made unless information on the financial situation of the borrower has been verified[95]. In addition, an advertisement may not imply that the borrower’s financial situation or budget will be improved by credit, nor that it is a substitute for savings, nor that an automatic cash reserve will be made immediately available with no apparent financial obligation[96]. Also, all advertisements, except those on radio or television, must include the following statement: “Credit is a commitment and must be repaid. Verify your ability to repay before you commit.[97]“

Contractual information

As with credit advertising, credit agreements are also subject to disclosure requirements. The information to be disclosed in the agreements remains similar from one country to another; it does not differ depending on the length of the term of a loan[98].

In Canada, the *Bank Act* requires financial institutions to disclose the cost of borrowing when granting a loan to a natural person[99]. This cost, expressed as an annual rate, includes the applicable interest or discount and the fees payable to the bank[100]. In addition, the *Act* prohibits granting a loan to an individual without disclosing certain information, which varies depending

[93] *Consumer Protection Act,* RSQ, c. P-40.1, s. 245

[94] *Id.*, s. 247; *Regulation Respecting the Application of the Consumer Protection Act*, CQLR c P-40.1, r. 3, s. 80

[95] *Code de la consommation,* Art. L311-5

[96] *Id*.

[97] *Id*.

[98] See, for example, the disclosure standards set forth in s. R313-1 of the *Code de la consommation* (France) and in sections 1026.17 and 1026.18 of *Regulation Z* (United States).

[99] *Bank Act,* L. C. 1991, c. 46, s. 450

[100] *Id*., s. 451

on the type of credit granted. For example, in a fixed credit agreement, the lender must disclose the principal of the loan, the sum of all payments, the term of the loan if it differs from the amortization period, and the amount and due date of each payment[101].

This information must be communicated by means of an initial written statement that is clearly and simply expressed in such a way as not to mislead the borrower[102]. The statement should be given to the borrower upon the conclusion of the credit agreement or, at the latest, on the date when the latter makes his first payment[103]. A variable credit agreement requires the use of a standardized information box in which the titles and numbers, including the interest rate, should be printed in bold in a font of at least 12 points[104].

This box is based on a similar one used in the United States, in which various data items are included, such as the type of credit agreement, the amount financed, the lender's name, the penalty in the event of early redemption, the annual interest rate, the method for calculating the balance of payments or the maximum amount of fees that may be charged[105]. This information must be presented in the form of a table in which the font should be no smaller than 10 points[106].

In Quebec, the credit agreement must be in writing[107]; the *CPA* and its regulations require the use of pre-established forms for each credit agreement[108] that use a font, type of paper and colour of ink designed to make the document more readable[109]. However, the inclusion of extraneous information, such as clauses that are inapplicable to the consumer, as can be found in a number of standard contracts used by several retailers, is still permitted. If, in Quebec, a retailer wishes to use the same contract for all jurisdictions in which it does business, he must state immediately before a provision that is inapplicable in Quebec, that it is so[110]; it nevertheless remains that these clauses form part of the contract and add to its heaviness.

In France, the contractual obligations with regard to information are more extensive than in Canada. Not only does the law require merchants to provide the borrower with a standardized contract form containing all the basic information about the characteristics of the contract, it requires them to explain it the consumer[111]. More specifically, merchants must direct the consumer's attention to the essential terms of the offers they are making and the consequences they could have on the consumer's financial situation, including the consequences of default. If

[101] *Id*., s. 452; *Regulation on the Cost of Borrowing (banks),* SOR-2001-101, s. 8

[102] *Regulation on the Cost of Borrowing (banks*), SOR-2001-101, s. 6.

[103] *Regulation on the Cost of Borrowing (banks*), SOR-2001-101, s. 7.

[104] Numbers in the information box may be referenced in the disclosure statement. See: *Regulation on the Cost of Borrowing (banks),* SOR-2001-101, s. 6

[105] 12 *CFR* 226, § 226.17, 226.18 and 226.5a (a) 2) iv)

[106] 12 *CFR* 226, § 226.18 (s) (1) and Schedules H-4(E) to H-4(H)

[107] *Consumer Protection Act,* RSQ, c. P-40.1, s. 23, 80

[108] *Consumer Protection Act,* RSQ, c. P-40.1, Schedules 3-4-5-7; *Regulation Respecting the Application of the Consumer Protection Act,* CQLR c P-40.1, r. 3, ss. 32-42

[109] *Regulation Respecting the Application of the Consumer Protection Act,* CQLR c P-40.1, r. 3, ss. 25-29

[110] *Consumer Protection Act,* RSQ, c. P-40.1, s. 19.1

[111] *Code de la consommation,* Art. L311-8

the credit is made available in the place where the sale is conducted, the merchant must ensure that the borrower is given the information and explanations in that place[112].

In addition, those who are responsible for providing these explanations and collecting the information necessary for the *fiche de solvabilité*[113] must receive training, especially about the rights and obligations of the borrower, the various forms of credit available, how to distinguish the financing needs of different consumers and the prevention of over-indebtedness[114]. Merchants who do not respect their disclosure obligations may be deprived of the right to charge interest.

In Australia, the consumer must receive several documents before he signs a credit agreement. First among these is a credit guide, which must include information on payments to third parties[115]. In addition to the guide, the credit assistant[116] – usually the seller – must give the consumer a provision of service statement or "quote"[117] that the consumer has to sign. This pre-contractual document must explain the particular services covered by the credit assistant and the maximum amount that will be payable to the assistant for his services. Without this statement, the assistant cannot provide credit services. The statement must be accompanied by a proposal document detailing the amounts due to the assistant for his services[118]. The consumer must also receive a preliminary or final written assessment showing that the credit is "not unsuitable" for his evaluation. Before signing the agreement, the consumer must receive a fourth pre-contractual statement that specifies the amount of credit and the interest rate[119]. The lender is not allowed to enter into a contract with a consumer if he has not provided this statement.

Some tools for the consumer

As we have seen, extending the term of a loan over a long period increases the consumer's total obligation while keeping periodic payments low. As our incidence survey shows, this poses particular problems for consumers, who are more likely to buy a far more expensive item than they would otherwise have done or to make more purchases. Similarly, extending the term can lead to a situation in which the value of the amounts to be refinanced is totally disproportionate to the actual value of the item purchased.

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[112] *Id.*

[113] The *fiche de solvabilité* is a document containing all the relevant information on the consumer's debts and income.

[114] *Code de la consommation,* Art. L311-8

[115] *National Consumer Credit Protection Regulations 2010* (Cth.), s. 26C

[116] A credit assistant is any person who suggests that a consumer apply for a loan, an increase to a loan, or a lease, who suggests that a consumer stay with an existing credit provider or lessor, or who assists the consumer to apply for a loan, an increase to a loan or a lease, whether on his own behalf or for that of an intermediary. See: *National Consumer Credit Protection Act 2009* (Cth.), s. 8

[117] *National Consumer Credit Protection Act 2009* (Cth.), s. 114; *National Consumer Credit Protection Regulations 2010* (Cth.), s. 28D

[118] *Id.*, s. 121; *Id.*, s. 28E

[119] *National Consumer Credit Protection Act 2009 - Schedule 1 National Credit Code* (Cth), s. 16-17

Despite these problems, the jurisdictions we studied have very few provisions respecting the length of the repayment period for a consumer credit agreement. In France, the standards governing revolving credit—roughly the equivalent of variable credit—stipulate a maximum repayment period. For example, for revolving credit of less than €3000, this period may not exceed 36 months; for revolving credit of $3000 or more, it may not exceed 60 months[120]. However, this limit does not take into account the life of the asset to be financed with the credit granted – which, incidentally, could be very complex to implement.

In the absence of standards governing "long term" financing, there do exist certain provisions that nevertheless provide consumers with some tools to mitigate the adverse effects of this type of financing. One of these tools resides in the retraction period. The French system allows consumers to take a few days of reflection to ensure that the use of credit is indeed appropriate to their situation. For example, the French borrower has, as of the moment of accepting the offer of credit, 14 days reflection in order to retract, if he so desires[121]. During this reflection period, the lender cannot release the finances and the seller cannot deliver the goods or services purchased; however, if the customer wants the item to be delivered to him soon, he has to sign and date a request expressly to that effect. The retraction period ends, then, at the moment of delivery – but that will take at least three days.

A detachable retraction form must be provided with the credit agreement: since the sales (or rental) contract and the credit agreement are interdependent, the borrower's retraction allows him to benefit from an automatic cancellation of his obligation to buy or lease the good[122]. If the borrower retracts within the stated time, the lender will not be allowed to taint his credit record[123].

In Canada, there is no retraction period at the federal level. A period of reflection does exist in Quebec, but this is only for two days following the day when both parties have a copy of the credit agreement in their possession[124]. The law allows the consumer to dissolve a credit agreement, without charge or penalty, by sending written notice or by returning the property[125]. However, this right of cancellation does not apply to a variable credit contract or to contracts for purchase or lease with guaranteed residual value of a new car of which the consumer has taken delivery[126], even though this represents a significant proportion of long-term financing agreements. Also, contrary to French law, the supply of goods is not subject to a time limit; in this case, one may question what goes on in the mind of a consumer who is able to take immediate possession of a good he has purchased by means of the financing agreement.

Another tool available to Canadian consumers with regard to long-term financing is the simple right, at any moment, to redeem all or part of the amount borrowed without having to pay fees

[120] *Code de la consommation,* Art. D311-4-1
[121] *Id.*, s. L311-12
[122] *Id.*
[123] *Id.*
[124] *Consumer Protection Act,* RSQ, c. P-40.1, s. 73
[125] *Id.*, s. 76
[126] *Id.*, s. 73

or penalties[127]. This option could allow consumers to free themselves from a credit agreement that imposes obligations over too long a period. A similar option also exists in France, where loan prepayment is free from interest and fees for the remainder of the agreement[128], except in the case of a lease with option to purchase. A prepayment penalty be requested if the amount repaid €1000; in every case, this penalty may not exceed the amount of interest that would have been paid[129].

While Canadian law is equally indifferent to the length of the term when the consumer is in default, it does provide several interesting – and little known – tools for the overburdened consumer unable to meet his payment deadlines. For example, at the federal level, the law provides that if the borrower fails to make a payment, the bank must issue, within 30 days, a statement of financial position that explains the consequences of such default.

In Quebec, contracts must contain a clause of forfeiture of benefit of term in order for the retailer to claim the consumer's total obligation in the event of default; in the absence of such a clause, the merchant can claim only the outstanding payments[130]. In addition, consumers have more rights than merchants in the event of forfeiture of benefit of term, these include the right to receive 30 days notice to remedy the situation[131]. Consumers also have the option of petitioning the court to vary the terms of payment under the agreement[132]. In the case of a credit agreement or an instalment plan agreement, the court may, for example, allow the consumer to return the goods rather than repay the amounts owed. To do this, it must take into account three criteria: the state of indebtedness toward the merchant, the consumer's ability to pay and the circumstances behind the payment default[133].

Our study of the jurisprudence reveals that consumers rarely avail themselves of these rights. A search through the case law turned up only a dozen judgments between January 1, 2010 and January 1, 2014 in which consumers took advantage of them[134]. This corresponds to the results of our incidence survey, in which almost half of the respondents said they had no information about the consequences of not paying off their loan. However, while a large proportion of

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[127] *Bank Act, L. C. 1991, c. 46*, s. 458; *Regulation on the Cost of Borrowing (banks), SOR-2001-101*, s. 17. Au Quebec, la Loi sur la protection du consommateur permet également de payer en tout temps son obligation, en tout ou en partie. Le solde dû sera alors égal, en tout temps, à la somme du capital net et des frais de crédit. See: *Consumer Protection Act,* RSQ, c. P-40.1, s. 93

[128] *Code de la consommation*, s. L311-22

[129] *Id*.

[130] *Consumer Protection Act,* RSQ, c. P-40.1, s. 104; *Regulation Respecting the Application of the Consumer Protection Act,* CQLR c P-40.1, r. 3, s. 34, 37, 41, 42. In addition, the merchant is obliged to inform the consumer of his rights in accordance with this clause.

[131] *Consumer Protection Act,* RSQ, c. P-40.1, s. 105-106

[132] *Id.*, s. 107-110

[133] See also: Nicole L'heureux et Marc Lacoursière, *Droit de la consommation,* 6th ed., Éditions Yvon Blais, 2011, p. 305

[134] *CPA* ss. 107-110: *Bank of Montreal v. Belley* 2010 QCCQ 6422; *Lamothe c. RBC Royal Bank* 2012 QCCQ 3914; *Allard v. RBC Royal Bank* 2012 QCCQ 5294; *George v. ScotiaBank* 2013 QCCQ 2770; *Boulet v. Bank of Montreal* 2014 QCCQ 3088; *Groupe Axel inc. v. Volcy* 2011 QCCQ 432; *Wells Fargo Financial Canada v. Normand* 2010 QCCQ 6545; *Lapointe v. Laurentian Bank* 2011 QCCQ 9358; *Larochelle v. Bank of Montreal* 2010 QCCQ 9345; *MBNA Bank of Canada v. Sifri* 2012 QCCQ 277. *CPA* ss. 144 and 145: *Caisse Desjardins de Brossard v. Emond* 2012 QCCQ 5170; *Larochelle v. Bank of Montreal* 2010 QCCQ 9345

consumers who use such financial tools default at least once[135], these risks are multiplied in the case of long-term financing agreements, and the importance of adequately informing consumers about this recourse and making it available to them becomes even more urgent.

Making lenders more responsible for over-indebtedness

In Canada, as we have seen, retailers do not hesitate to present long-term financing as a way of gaining easy access to credit. The consequences to the consumer are overconsumption and over-indebtedness. Business practices of this type offend the basic principle of responsible lending, namely that the creditor "must not knowingly or recklessly extend more credit to a consumer than the consumer can reasonably carry and can be expected to be able to pay off having regard to the debtor's existing and future financial circumstances[136]."

While no such principle is yet incorporated into Canadian law, other countries, however, have taken the lead. This is the case in France, where the law has several requirements related to this principle. First, before concluding a credit agreement, the lender or intermediary must provide information in writing enabling various offers to be compared; this will allow the borrower to determine whether the proposed credit agreement is adapted to his or her needs and financial situation[137]. In addition, the previously mentioned standardized contract form that the consumer is given must contain the following statement (which must also be reproduced in advertisements):

> "Credit is a commitment that must be honoured. Check your ability to repay before you commit.[138]"

Before concluding the credit agreement, the French lender must verify the borrower's creditworthiness based on a sufficient amount of information[139]. He must, among other things, consult the *Fichier national des incidents de remboursement des crédits*[140] which is a complete list of every individual in France who has defaulted on a credit obligation. When the credit agreement is concluded on the premises of the sale, the consumer will be handed a sheet containing information about his assets and liabilities, which he must sign to confirm its accuracy. If the amount payable exceeds €3000, this form must be supported by documentation

[135] In fact, in a class action brought against Brault & Martineau (*Riendeau v. Brault and Martineau*, 2007 QCCS 4603, paras. 11 and 62), we learned that 70% of this company's customers finance their purchases and 70% of these customers ultimately pay credit charges, because they default at one time or another. Of course, this data is from a single trader, but we think it provides an idea of the practices in the long-term credit industry as a whole.

[136] Jacob Ziegel, "Consumer Insolvencies, Consumer Credit, and Responsible Lending," Research Paper Prepared by Author In Fulfillment of the Lloyd Houlden Fellowship Award 2007, p. 7

[137] *Code de la consommation,* Arts. R311-3, L311-6, L311-7

[138] *Id.,* Art. L311-6

[139] *Id.,* Art. L311-9

[140] Since this is a negative file, it does not permit the consumer's entire credit history to be known; the file contains only information related to repayment incidents, if any.

such as proof of income or proof of identity[141]. The credit provider or the seller who does not perform this check may be deprived of the right to charge interest[142].

In addition, in the case of an agreement called “*de credit affecté*” – which essentially amounts to a credit sale in Canada – the seller may not have the buyer sign one or more credit agreements that would result in his being granted an amount higher than the capital cost of the desired product[143]. In other words, France forbids financing plans in which the amount available to the consumer is higher than that needed to pay for the good or service.

In Australia, there are also rules to ensure the accountability of the lenders, who must ensure that the consumer has the ability to pay. They must not only ensure the consumer’s solvency but also, based on quantitative and qualitative criteria, check their “capacity” to repay the loan, even in times of financial difficulty. The quantitative criteria correspond to the consumer’s debts and income. The qualitative criteria relate more to the burden that these debts and the new requested loan may impose. The credit provider must ensure that the consumer actually does have the ability to pay and not simply rely on a credit score that shows only that he usually pays well. He must also ensure that the consumer has all the correct information on the various credit offers.

Finally, in the United States, there are few provisions related to the lender’s responsibilities. Although credit card providers must consider the debtor’s ability to pay before issuing a card or increasing the cardholder’s limit, this requirement does not exist for other the types of credit used in long-term financing. There is also a ban on advertisements that claim that a loan can help erase some debt, but which applies only to real estate mortgages[144]. This is another solution that we could learn from to better protect Canadian consumers.

[141] *Code de la consommation,* Art. D311-10-3d

[142] *Id.,* Arts. L311-48 et L311-49

[143] *Id.,* Art. L311-20

[144] 12 *CFR* 226, § 226.24 (5)

SECTION 5 – Conclusion and recommendations

The facts are undeniable: financing terms are growing steadily longer and longer. However, what exactly constitutes “long-term” financing remains difficult to pin down. What is sure is that the closer the duration of the financing approaches (or exceeds) the life of the asset financed, the more confident one can be in calling it long-term financing. Automobile financing, for example, is usually considered to be “long term” when it extends over more than 5 years, the usual duration of the manufacturer’s warranty.

Retailers and financial institutions deploy a wide range of advertising techniques designed to entice consumers to subscribe to long-term financing. First of all, they extend the term of the loan, in order to attract consumers by offering low periodic payments. To further reduce this amount, they offer the option of making payments every two weeks or once a week rather than once a month. Retailers also highlight the low cost of the periodic payments in their advertisements, leaving out other essential information such as the amount of the consumer’s total obligation and the total duration of the term, which are often in small print or in abstruse language. In their zeal to convince the consumer, they go so far to suggest that it is sometimes cheaper to buy on credit than pay cash. They may even offer “rewards” if the consumer subscribes to a financing plan. Some banks even invite consumers to buy more expensive items than they planned, by extending the term of their loan.

The incidence survey we conducted on consumers also reveals that the lure of low interest rates and the amount of the periodic payments are sensitive points in the consumer’s decisional process. It is therefore not surprising to find these points in the advertisements we studied. Similarly, many consumers feel they would not have the means to buy an item without recourse to financing; more than half of respondents even claimed that the long-term financing has enabled them to buy a much more expensive item than they had originally planned. Others added that the ease of access to credit and payment management in their budget are the reasons why they chose this mode of financing.

In short, these results are worrying given the risks of overconsumption and over-indebtedness entailed in long-term financing. The law has not responded by strictly regulating the duration of the term over which a good or service may be financed. Nonetheless, certain provisions in the laws of Canada, the United States, France and Australia point the way toward some interesting solutions.

First of all, most of the jurisdictions we studied require compulsory information to be included in all advertisements suggesting the use of credit and in all credit agreements. However, there is usually no attendant obligation that this information be made readable for the consumer; in advertisements, for example, it is often found in small print. Regarding the amount of the periodic payment, the law in Quebec provides that this may not be displayed in an advertisement unless the total obligation is given equal prominence. Similarly, both the French law and the Quebec law set limits on encouraging consumers to obtain goods using credit.

In the absence of standards governing “long term” financing, certain provisions offer tools to consumers that could mitigate its adverse effects. The retraction period, the ability to repay the debt at any time or the rights granted by law with regard to forfeiture of benefit of term can be beneficial to consumers.

These legal solutions are certainly relevant. However, considering the risks of overconsumption and over-indebtedness posed by long-term financing, they will remain insufficient until principles of responsible lending are incorporated within the law. Beyond setting a cap on the amortization period of credit agreements, a truly effective approach to solving the problems posed by long-term financing will also require responsible lending. In this regard, Canada might seek inspiration in legislative provisions respecting responsible lending enacted in France and Australia. These provisions set standards that require lenders to supply consumers with information on the risks related to credit and especially to verify their capacity to repay the amount borrowed.

Initiatives in micro-credit could also be implemented to complement these legislative measures, Currently, Canadian financial institutions are reluctant to lend amounts less than $1,000[145] , and in some cases, less than $12,500[146]. Since the alternatives often prove to be inadequate[147], consumers have to rely on sometimes more expensive tools such as credit cards or financing plans. Wider access to low-cost credit for small amounts could help limit recourse to types of credit such as long-term financing.

In light of the foregoing, we submit the following recommendations:

Recommendations to the federal and provincial governments:

- **Option consommateurs recommends the principle of responsible lending be incorporated within the law. Merchants and financial institutions should be required to verify consumers' capacity to repay their debts before entering into a credit agreement with them. This obligation should include the requirement that the lender base his assessment not only on the credit file of the consumer, but on his entire situation, taking into account unexpected events such as job loss or difficult economic situations that could arise during the term of the agreement. The lender should also ensure that the credit agreement is suited to the needs of the consumer and does not promote over-indebtedness, particularly as a result of its duration.**

- **Option consommateurs recommends studying the possibility of defining maximum loan amortization periods, depending on the type of property financed.**

[145] Only one financial institution (Scotiabank) has a $1000 minimum loan. For the others, these amounts range from $3000, $5000 and $12,500 dollars.

[146] Desjardins Movement personal loan.

[147] In Canada, there are now some emergency loans offered in partnership with financial institutions and consumer groups that, under certain conditions, allow low-income consumers to purchase essential durable goods such as appliances at a low rate of interest. In Quebec, for example, Desjardins offers secured loans. However, only 35% of requests for this type of loan are accepted. See: Sophie Roussin, *Petits prêts aux consommateurs : quelles solutions*, Report presented to Industry Canada's Office of Consumer Affairs by Union des consommateurs, 2009

- **Option consommateurs recommends stricter rules regarding advertising credit, drawing inspiration from certain provisions in the laws of the jurisdictions studied. Among these are:**

    - **mandatory disclosure of certain important information such as the amortization period in years and the total liability of the consumer to be displayed at least as prominently as the periodic payments;**
    - **standards to ensure that this mandatory information is clear, legible, visible and understandable, and is not rendered in small print;**
    - **prohibition against including suggestions that credit might improve the financial situation of consumers or that encourage them to purchase goods using credit or to spend more than they originally planned;**
    - **the inclusion in advertisements of an obligatory mention of the risks associated with credit.**

- **Option consommateurs recommends that lenders be forbidden to provide the consumer, in any credit sale, with an amount of variable credit that is greater than that required to finance the purchase.**

- **Option consommateurs recommends that the credit agreements used in long-term financing be more strictly regulated, drawing inspiration from the provisions of the laws of the jurisdictions studied. Among these rules are:**

    - **the inclusion, on the first page of the agreement, of a summary of the consumer's obligations and important information related to his financing;**
    - **standards of clarity and readability, for example limiting the number of words per sentence or characters per line or reducing the density of paragraphs;**
    - **prohibition on including within the agreement unnecessary clauses or ones that do not apply to the consumer;**
    - **the obligation of the merchant or financial institution to explain the content of the contract verbally to the consumer before he signs, including the duration of the financing, the total obligation he is required to repay, his rights in the event of default as well as other financing options available to him;**
    - **giving the consumer a mandatory, easy-to-understand guide explaining the risks related to credit before entering into a credit agreement.**

Recommendation to provincial consumer protection agencies:

- **Option consommateurs recommends that the implementation of existing laws on credit advertising, especially on the Internet, be more closely monitored.**

Recommendations to merchants and financial institutions:

- **Option consommateurs recommends that training on the consequences of indebtedness and the importance of lending responsibly be given to employees offering credit or entering into a credit agreement on behalf of a lender. These**

employees should also be familiar with the applicable penalties in the event of violation.

- **Option consommateurs recommends facilitating access to low interest micro-credit in partnership with consumer associations.**

Recommendation to consumers:

- **Option consommateurs recommends that consumers be well informed on all the terms of the credit before entering into a financing agreement, particularly as regards the total duration of the loan term and the amount of the total obligation, and to avoid buying a more expensive item than planned because of the financing made available.**