Online consumer loan regulations

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Consumer loans have been around for a long time, but the digital economy is transforming the way customers obtain loans in order to meet their new needs. This has led to the propagation of new companies that offer innovative financial services and the development of new technologies to improve the delivery of these services.

We are witnessing the emergence of the fintech phenomenon, spearheaded by tech-based companies with a specialized portfolio of alternative financial services, which include consumer loans. In many cases, these value propositions take advantage of loopholes or exemptions such as, in the case of Spain, the lack of reserve requirements to grant loans. In Europe, the provision of these services is regulated by the Directive governing consumer loan agreements, which lays out a series of requirements aimed ensuring the greatest possible transparency in the lending process. Nevertheless, some entities have known how to work on the fringes of the regulatory framework to offer their services, which confuses consumers, as they do not enjoy the same legal protections in many cases. In this regard, we should also mention so-called payday loans in the English-speaking world, and crowdfunding portals. In the case of payday loans, many operators offset the greater risks with very high interest rates, especially in the case of late payments. Authorities have taken measures to avoid potential problems related to these practices, applying usury laws and enacting legislation that aims to keep families from taking on too much debt through initiatives like the aforementioned directive. As for crowdfunding portals, consumers also tend to ignore the responsibilities and obligations assumed by the portal and the lack of protections for users given that in some cases we are talking about financing among peers without the participation of any financial institution. For the time being, regulators are focused on investors who contribute funds, but the borrower is still relatively unprotected.

Introducing new technology is a challenge, but it also affords new opportunities that allow financial institutions to improve their customer experiences throughout the lending process: identification, assessment and granting.

In the case of identification, using biometric systems, videoconferences, scanning or automated verifications allows institutions to offer secure and agile remote services. In this area we see legislative improvements such as the recent authorization of videoconferences to register customers in Spain or Digital Identification and Electronic Signatures in Europe (eIDAS), which creates a single digital identity framework that ly restricts relations with public administrations.

Assessing customer profiles is where most of the innovation is taking place. One of the key concepts in this area is to determine not only the customer's borrowing capacity but also their predisposition to return the funds recevied. This creates the need to carry out a holistic assessment of the customer, while adding information from alternative sources that allow lenders to obtain a clearer picture of borrowers and their behavior. In any case, the use of personal data and its limitation is a very important matter as reflected in the recent Personal Data Protection Law.

Finally, the loan process is completed by signing the contract, which is validated by a third party that performs a notary-like role. Digital signatures are nothing new and valid legal forms are already in place, although new technologies will spur the development of even more secure iterations.

In conclusion, we can say that most of the current regulatory initiatives are focused on potential problems arising in consumer lending, particularly as regards protection, but not necessarily customer experience.

Future legislation should seek to balance the benefits these innovations provide and the legal requirements needed to protect consumers and the financial system in general.

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