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3rd workshop on housing finance

Consumer protection or
Consumer participation
?

three parties:

- Society
- Borrowers
- Mortgage lenders

Each party has special
Interests

Which should be considered
Equally:

Society: family houses and
apartments (social welfare for the
population)

Borrowers: reasonable conditions
+fair treatment

Mortgage lenders: business

Thus, consumer protection is one of the pillars which supports the need of society to ensure that people have access to dwellings on reasonable conditions

Let us distinguish between consumer protection

In a narrow sense

Which means consumer = borrower
participation

And a wider sense

Which means legislation and administration as framework for the lending process.

The wider sense:

The legal system – i.e. surrounding legislative infrastructure that supports mortgage lending, such as

A system for title, claims and priority registration

Land cadastre and property register

Laws on:

- marketing practices
- mortgage banks
- unfair competition, and
- taxation

authorities may draw up and publish guidelines on good marketing practices.

It can be made a condition for public registration of the mortgage that the text of the mortgage deed is drafted after a model laid down by an authority.

This is an advantage for the borrower but also for the banks: the investors who acquire mortgage backed securities will know that all the mortgages are homogeneous and fulfil certain strict requirements

The narrow sense:

The borrower and the lender are not equal parties – the weaker party needs protection – or better: to be accepted as a negotiating partner to the mortgage bank

The conditions for the loan must be fair and durable so that the borrower is able to fulfil his obligations

The lending process – a survey:

1. marketing. May not contain misleading or incomplete indications or statements to affect the demand of financial services

2. advisory services should enable the borrower to obtain the information necessary for him to make his decision on an informed basis and in accordance with his own interests

3. reasonable terms of the mortgage agreement and guidance on its contents. Quick and flexible handling of the application. The authorities may issue binding regulations on the most important elements in the contract

4. fair treatment in case of default. Written notice from the mortgage bank. Practical and social assistance to the family

5. foreclosure proceedings. Forced sale on auction in a special court or sale in the open market assisted by the bank.

Obviously, every country has its own traditions and legal system that shape and put limits to the kind of financial system that will work in the marketplace.

But to the extent a new choice can be made, the above considerations could be useful in order to make it easier for people to get a better life by improving their housing conditions