

Revision of EU Consumer Law Public Consultation



Odette Vella

Director Information, Education
and Research

Office for Consumer Affairs
MCCAA

12 September 2017

EU Consumer Law Fitness Check

Directives covered by Fitness Check:

- Unfair Commercial Practices Directive
- Sales and Guarantees Directive
- Unfair Contract Terms Directive
- Price Indication Directive
- Misleading and Comparative Advertising Directive
- Injunctions for the protection of consumers' interests Directive



EU Consumer Law Fitness Check

Objectives:

- **To assess whether EU Consumer Law is still fit for purpose;**
- **How to make EU laws simpler and easier to understand.**

Following criteria assessed:

- Have the objectives of the legislation been achieved?
- What are the costs and benefits at exercising these rights?
- Is the legislation still relevant for today's consumers' problems?
- Did EU action provide clear added value?
- Is there coherence between EU consumer legislation and other policy and legislation?



Is EU Consumer law effective?



How do we know?

- Cross border shopping increased.
- Increase in consumer trust.

What made this increase in trust possible?

- Reliable internet access
- Harmonised EU protection rules
- Less problems reported by traders regarding compliance (20%)

Costs for traders to adhere to EU Legislation

Traders' Costs

Proportionate when compared to:

- annual turnover
- benefits EU rules bring for the functioning of consumer markets.

Traders' Benefits

- Easier cross-border trade - 63% of cross-border traders benefitted. This thanks to more harmonised consumer laws (Consumer Rights Regulations)
- 51% of domestic traders benefitted from protection against misleading advertising by other businesses.



Benefits for consumers at exercising their legal rights

Consumer Benefits

- 72% of consumers report benefitting from the remedies provided by the Sales and Guarantee Directive



- 45% of consumers benefitted from pro-consumer interpretation of unclear terms.

EU Added Value

One of criteria assessed in the Fitness Check.

- Action at EU level ensures coherent application of consumer rights.
- Consumers benefit from the same high level of protection across the internal market.
- Provides more legal certainty and stability in cross-border trade. Hence ensures an increase in cross-border trade.
- Better awareness of EU wide consumer rights.



Fitness Check Outcome

EU Consumer Law is still **fit for purpose**.

However following actions recommended to make the best of the existing legislation:

- Improve awareness on consumer legislation
- Stepped up enforcement and easier redress
- Targeted amendments to simplify the regulatory landscape where this is fully justified (scope of Public Consultation)

Public Consultation

Main Objectives

To seek stakeholders' feedback on the following matters:

- More transparency on identity of online sellers when consumers conclude sales contracts on online platforms
- To establish whether EU consumer rights are applicable to the companies that manage online platforms
- Whether some consumer rights should be extended to contracts for online services which are paid for through personal data



Public Consultation

Main Objectives

- Redress for consumers harmed by Unfair Commercial Practices
- More effective financial penalties
- Simplification of rules and requirements



More Transparency – Online Platforms

Problems encountered in this area:

- Identity of online seller unknown
- Consumers unaware of their legal rights



More transparency = increase in consumer trust and more online transactions for both consumers and traders.

Extension of consumer rights to contracts for online services paid for through personal data

Problems encountered in this area:

Pre-contractual information requirement and the right of withdrawal do not apply when payment is made through personal data.

Example: traders not obliged to inform consumers about the interoperability of their services with hardware and software nor about the duration of the contract.

Consumer Rights Directive only caters for problems with digital content even if it is not supplied against payment of a price.

Extension of consumer rights to contracts for online services paid through personal data

In 2015 the Commission proposed a directive on the supply of digital content.

If implemented this Directive will give consumers the right to claim a remedy regarding both digital content and digital services, including when these are paid by personal data.

Following issues must first be assessed:

- If new directive will effectively reduce consumer detriment
- If it will increase costs for traders
- If it will result in more consumers using 'free' services



Redress for consumers harmed by Unfair Commercial Practices

Problems encountered in this area:

- Divergent and ineffective national rules on remedies/redress
- Divergent rules negatively effect consumers when they are misled and want compensation especially in cross-border transactions
- Ineffective application of rules decrease consumer trust and diminish cross-border purchases



More effective financial penalties

Problems encountered in this area

- Not effective and deterrent enough to prevent lack of compliance by traders, hence consumer detriment
- Penalties vary significantly between Member States
 - Level of penalties in some Member States is so low that the maximum penalty is not proportionate to the widespread character of breaches.
 - Different penalties for the same breaches lead to a lack of a fair playing field for traders across Europe.

Simplification of Rules

Problems encountered in this area

- UCPD and CRD impose the same information requirements on sellers at advertising and pre-contractual stage.
- Fitness Check Consumer Survey revealed that some of the information required is less relevant for consumers.
- Proposal to allow traders to use technologically advanced means of distance communication as a tool of communication with consumers and not just telephone, fax or email.

The above would reduce administrative burdens on traders.

- Need for coherence with sector specific rules



Simplification of Rules

More problems encountered

- Reported financial loss by distance traders:
 - CRD provides for reimbursement to consumers without first having the possibility to inspect the returned goods
 - CRD gives consumers the right to cancel sales and return unwanted products even after using them more than what is necessary to inspect them as they would do in a shop.

Public Consultation - Relevant Stakeholders

A wide range of stakeholders will be consulted including:

- Citizens/consumers
- National consumer associations and their EU umbrella organisations
- Businesses (both SMEs and larger businesses)
- National Business Organisations
- National Authorities
- Judiciary, Lawyers' associations, university/research institutes dealing with consumer law.

Key Aspects of Public Consultation

Feedback from stakeholders will allow the Commission:

- to collect additional data on the problems to be addressed.
- to collect views on the options for policy intervention and their likely impacts.
- to collect information on the compliance costs and further impacts of different options.
- to collect information on potential for simplification and burden reduction.

Consultation Deadline: **8 October 2017**

Link to Survey:

<https://ec.europa.eu/eusurvey/runner/ConsumerLawReview>

*Thank
you*



Odette Vella

Email: odette.vella@mccaa.org.mt

Tel: 23952736