

EU consumer protection rules: enforcement and modernisation

2018/0090(COD) - 28/01/2019 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Daniel DALTON (EPP, UK) on the proposal for a directive of the European Parliament and of the Council amending Council Directive 93/13/EEC of 5 April 1993, Directive 98/6/EC of the European Parliament and of the Council, Directive 2005/29/EC of the European Parliament and of the Council and Directive 2011/83/EU of the European Parliament and of the Council as regards better enforcement and modernisation of EU consumer protection rules.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Transparency requirements for online marketplaces

Where an online marketplace or comparison service provides access to consumer reviews of products, the following information shall be regarded as material: (a) a description of the processes used to solicit and present consumers' reviews and whether the authenticity of those reviews is checked; and (b) where such checks take place, a description of the main characteristics of the check. Consumers should also know whether the third party offering the goods and services is a trader or not.

When providing consumers with the possibility to search for products on the basis of a query in the form of a keyword, phrase or other input, online marketplaces and comparison services shall provide information on the main parameters, presented in order of relative importance, determining the ranking of offers presented to the consumer as result of his search query.

Members called for specific information on price reductions (in the case of travel, for example) to be included in the search results of online marketplaces. Online marketplaces should also, where appropriate, indicate the official classification of a product or service (e.g. the star rating system for hotels in the tourism sector).

In addition, online marketplaces realising that a given offer, product or service on their platform is illegal, should inform consumers about the potential illegality of the offer, product or service they have bought. Such an obligation would offer better protection to consumers, through increased transparency.

Online marketplace operators shall be obliged to take reasonable steps to ensure that the services they provide are not subject to misuse, leaving consumers vulnerable.

Misleading practices

Members proposed adding to Annex I of Directive 2005/29/EC (commercial practices deemed unfair in all circumstances) certain misleading practices such as the following:

- provide, following an online request, information to promote a product when the trader has directly or indirectly financed the promotion or prominent placement bypassing the main body of search results without making that clear to the consumer;

- stating or otherwise creating the impression that a review of a product is submitted by a consumer who has actually used the product without taking reasonable and proportionate steps to ensure that that review reflects real consumers' experiences;
- stating or otherwise creating the impression by its appearance, description or pictorial representation that a good is identical or seemingly identical to another good marketed in another Member State when it is not, unless those goods differ on account of clear and demonstrable regional consumer preferences, the sourcing of local ingredients or requirements of national law, while this distinction is clear and comprehensively marked so as to be immediately visible to the consumer;
- creating the false impression that other consumers purchased, used or recommended a specific product, service or digital content based on unrelated parameters.

Termination of contracts and right of withdrawal

Contractual remedies shall include the possibility for the consumer to unilaterally terminate the contract. Members suggested that additional contractual remedies which reflect the nature and gravity of the noncompliance shall also be provided, including the right to obtain a price reduction or the right to obtain compensation for damage.

Members also rejected the Commission's proposal to reduce consumer rights to property restitution. They have reintroduced the 'right of withdrawal', which allows goods purchased online to be returned for a period of 14 days.

Penalties

In the case of a widespread infringement or widespread infringements at Union level, Member States should set, in their national law, the maximum amount of the fine for such infringements at a level corresponding either to EUR 10 million or to at least 4 % of the trader's annual turnover of the previous financial year in the Member State concerned, whichever is the higher.

The revenue from fines should be used to enhance the protection of the general interest of consumers, in particular by setting up a fund dedicated to providing redress in cases of harm suffered by consumers.

'European Consumer Rights' mobile application

By 1 January 2021, the Commission shall develop a mobile application to serve as a point of entry for citizens seeking information on their consumer rights and for consumers seeking out-of-court resolution of disputes covered by Regulation (EU) No 524/2013 and support in complaints through the European Consumer Centres Network.

The mobile application shall have the following functions: (a) to provide a model electronic complaint form which can be filled in by the consumer; (b) to submit the completed complaint form to the ODR platform established under Regulation (EU) No 524/2013 or to the competent European Consumer Centre, based upon the parties involved; (c) to provide accurate and up-to-date information in a clear, understandable and easily accessible way on consumer rights and guarantees related to buying goods and services.