

EU consumer protection rules: enforcement and modernisation

2018/0090(COD) - 17/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 474 votes to 163, with 14 abstentions, a legislative resolution 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 European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Transparency requirements for online marketplaces

The amending Directive shall introduce more transparency for consumers in online marketplaces, in particular as regards the use of online notices, personalised pricing based on algorithms or the higher rating of certain products through 'paid advertisements'.

Where comparison services allow consumers to search for products based on a query consisting of a keyword, sentence or other data entry, they should provide information on the main parameters, in order of importance, that determine the ranking of offers made to the consumer in response to the search request. This information should be succinct and made easily, prominently and directly available.

In addition, online marketplaces shall be required to inform consumers whether the third party offering goods, services or digital content is a trader or non-trader, on the basis of a declaration by the third party to the online marketplace.

Where a trader provides access to consumer opinions on products, information to establish whether and how the trader ensures that the published opinions are from consumers who have purchased or used the product shall be deemed substantial.

The text also clarifies consumer protection for 'free' digital services where consumers do not pay money but provide personal data, such as cloud storage, social media and e-mail accounts.

Unfair practices

The amended text adds to Annex I of Directive 2005/29/EC (concerning unfair business-to-consumer commercial practices in the internal market) certain misleading practices such as the following:

- reselling events tickets to consumers if the trader acquired them by using automated means to circumvent any imposed limit on the number of tickets that a person can buy or any other rules applicable to the purchase of tickets;
- stating that reviews of a product are submitted by consumers who have actually used or purchased the product without taking reasonable and proportionate steps to check that they originate from such consumers;

- submitting or commissioning another legal or natural person to submit false consumer reviews or endorsements, or misrepresenting consumer reviews or social endorsements, in order to promote products

Repair and maintenance

Consumers harmed by unfair commercial practices, shall have access to proportionate and effective remedies, including compensation for damages suffered by the consumer and, where relevant, price reduction or the termination of contract.

The amending Directive introduces an individual right of redress for consumers when they are harmed by unfair commercial practices, such as aggressive marketing, provided that such remedies are proportionate, effective and do not affect the application of other remedies available to consumers under EU or national law.

Member States may therefore adopt rules under which the 14-day withdrawal period shall be extended to 30 days for contracts concluded in the context of unsolicited visits by a trader to a consumer's home or excursions organised by a trader with the purpose or effect of promoting or selling products to consumers.

Sanctions

In the case of a major infringement or EU-wide infringements, the maximum amount of the fine shall be 4% of the trader's annual turnover in all the Member States concerned or a flat-rate amount of EUR 2 million in cases where information on its turnover is not available.

The amended text also includes a review clause requiring the European Commission to assess the situation within two years in order to examine whether the double level of product quality (i.e. cases where goods are presented on the market as identical when they have a significantly different composition or characteristics) needs to be added to the black list of unfair commercial practices.