

EU consumer protection rules: enforcement and modernisation

2018/0090(COD) - 18/12/2019 - Final act

PURPOSE: to modernise EU consumer protection law.

LEGISLATIVE ACT: Directive (EU) 2019/2161 of the European Parliament and of the Council amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules.

CONTENT: the Directive amends [Directive 2005/29/EC](#) on unfair commercial practices, [Directive 2011/83/EU](#) on consumer rights, Directive 93/13/EEC on unfair terms in consumer contracts and Directive 98/6/EC on indication of prices. It is part of the "New Deal for Consumers" launched by the Commission in 2017.

Penalties for infringements

The Directive introduces further harmonisation and simplification of some of the criteria for determining the level of penalties to be imposed for infringements of EU consumer protection legislation.

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

Compensation, reparation, redress

Consumers shall claim compensation for the damage suffered and, where appropriate, a price reduction or the termination of the contract, in a proportionate and effective manner. Member States may maintain or introduce rights to other redress, such as repair or replacement, for consumers who have been harmed by unfair commercial practices.

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

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

Transparency requirements for online marketplaces

The Directive imposes greater transparency in online transactions, in particular as regards the use of online notices, personalised pricing based on algorithms, or the higher ranking of certain products through paid advertising.

The Directive thus provides for:

- the obligation for comparison services which allow consumers to search for products on the basis of a keyword query or other data entry, to provide information on the main parameters, presented in order of importance, which determine the ranking of the offers presented to the consumer in response to his search query;
- the obligation for online marketplaces to inform consumers whether the trader responsible for the transaction is the seller and/or the online marketplace itself.

Certain misleading practices, such as those consisting of:

- providing search results in response to a consumer's online search request without clearly informing the consumer of any paid advertising or payment made specifically to obtain a higher ranking of products in the search results;
- claiming that product reviews are sent by consumers who have actually used or purchased the product, without taking reasonable and proportionate steps to verify that they are actually from such consumers;
- sending or instructing another legal or natural person to send false customer reviews or recommendations.

The Directive also clarifies consumer protection in relation to "free" digital services where consumers do not pay money but provide personal data, such as cloud storage, social networks and e-mail accounts.

Price reduction

The Directive requires clear information to be given to consumers in the event of a price reduction. Any announcement of a price reduction shall indicate the prior price applied by the trader for a determined period of time prior to the application of the price reduction. The prior price means the lowest price applied by the trader during a period of time not shorter than 30 days prior to the application of the price reduction. Member States may provide for different rules for goods which are liable to deteriorate or expire rapidly.

Dual-quality products

The Directive introduces clarifications as to how misleading commercial practices concerning "dual-quality" products (i.e. cases where goods are presented on the market as identical when they have a significantly different composition or characteristics).

The European Commission shall assess the situation by 28 May 2024 in order to consider whether dual-quality products need to be added to the black list of unfair commercial practices.

ENTRY INTO FORCE: 7.1.2020.

TRANSPOSITION: no later than 28.11.2021.

APPLICATION: from 28.5.2022.