**Directive: Consumer Rights**

**ID:** 30 **Code:** COM(2008) 614 **Type:** Directive **Date of Proposal:** 8.10.2008 **Current Status:** Agreed 25.10.2011

**Title:** Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on consumer rights

**Identified Commission Official:** DG Health and Consumers

**Objective:** The current rules of EU consumer protection result from four EU Directives - Unfair contract terms, Sales and Guarantees, Distance Selling, and Doorstep Selling. The overarching aim of the Directive is to achieve a real business-to-consumer internal market striking the right balance between a high level of consumer protection and the competitiveness of enterprises, while ensuring respect of the principle of subsidiarity. The objective of the proposal is to contribute to the better functioning of the business to-consumer internal market by enhancing consumer confidence in the internal market and reducing business reluctance to trade cross-border. This overall objective should be attained by decreasing the fragmentation, tightening up the regulatory framework and providing consumers with a high common level of consumer protection and adequate information about their rights and how to exercise them.

## Background: The costs incurred by business to comply with the fragmented Consumer Acquis are significant. This denys consumers more choice and competitive offers. For the majority of traders, such compliance costs constitute an important barrier to cross-border trade which reduces their incentive to sell cross-border, particularly to consumers in small Member States. If no legislative action is taken at Community level, such costs will continue to be passed on to consumers in the form of higher prices or, worse, businesses will continue to refuse to sell cross-border or create geographical discriminations between consumers depending on their country of residence.

The Consumer Rights Directive concerns contracts for sales of goods and services from business-to-consumer. Generally all contracts are covered, i.e. purchases made in a shop, at a distance or away from business premises.

* Pre-contractual information. The Directive obliges the trader to provide the consumer with a clear set of information requirements, for all consumer contracts so the consumer can make an informed choice.
* Rules on delivery and passing of risk to the consumer.
* Cooling off periods (distance sales, e.g. Internet sales, mobile phone, catalogue and pressure sales).
* Repairs, replacement, guarantees.
* Unfair Contract Terms: a new black list of unfair contract terms which are prohibited across the EU in all cases and an EU wide grey list of contract terms deemed to be unfair if the trader does not prove the contrary.

Protection is also strengthened in many areas, including:

* Online auctions: the Directive requires auctions, including e-auctions, to meet the standard information obligations.
* Pressure Selling; Protection against pressure selling.

## Member States have added rules in an uncoordinated manner over the years, making EU consumer contract laws a patchwork of 27 sets of differing rules. The proposed Consumer Rights Directive simplifies 4 existing EU consumer rights directives into one set of rules. The proposal moves away from the minimum harmonisation approach followed in the four existing Directives (i.e. Member States may maintain or adopt stricter national rules than those laid down in the Directive) to embrace a full harmonisation approach (i.e. Member States cannot maintain or adopt provisions diverging from those laid down in the Directive).

**Consultation**: On 8 February 2007, the Commission adopted the Green Paper on the Review of the Consumer Acquis. This Green Paper consultation was conducted over the Internet from 08/02/2007 to 15/05/2007. The Commission received 307 responses. The Green Paper attracted responses from a wide range of stakeholders, i.e. business, consumer, European Parliament, Member States, academics and legal practitioners. The majority of respondents to the Green Paper called for the adoption of a horizontal legislative instrument applicable to domestic and cross-border transactions, based on full-targeted harmonisation. The horizontal legislative instrument should in the view of most respondents be combined with vertical revisions of the existing sector-specific directives. There was a strong support for tightening up and systematising the Consumer *Acquis*.

The Commission also published two consultation documents on Directive 97/7/EC and on Directive 85/577/EEC focusing on the specific issues pertaining to these Directives. All interested parties were invited to submit replies to the Commission, respectively by 21 November 2006 and 4 December 2007. The Commission received respectively 84 and 62 replies from all relevant stakeholders. The Commission held a full-day stakeholder conference on 14 November 2007. On 20 December 2007, two questionnaires (for businesses and consumers) were sent out by the Commission's contractor to stakeholders. Business and consumer stakeholders were invited to workshop held in February 2008.

According to the Proposal of the directive there was no need for external expertise.

## Issues: 1.) improving the functioning of the Internal Market, fragmentation of the regulatory framework constitutes an important barrier to cross-border trade -  a standard set of consume contract terms will cut compliance costs substantially; 2.) strengthen protection and trust of consumers in cross border trade, with ensuring a high level of consumer rights (i.e. with obliged pre-contractual information, setting rules on delivery and passing of risk to the consumer, cooling off periods, repairs, replacement, guarantees, unfair contract terms, and protection against pressure selling), 3.) maximum harmonization as a general principle governing the directive.

**Frames:** (1) Economic (harmonised directive would lower the costs of cross-border trade), (2) Consumer rights

**Other Information:** -