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Revision of consumer law directives (including injunctions): the 'New Deal for Consumers'

This briefing is one in a series of 'implementation appraisals', produced by the European Parliament Research Service (EPRS), on the operation of existing EU legislation in practice. Each briefing usually focuses on a specific EU law which is likely to be amended or reviewed, as foreseen in the European Commission's annual work programme. Implementation appraisals aim to provide a succinct overview of publicly available material on the implementation, application and effectiveness to date of specific EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are provided by the Ex-Post Evaluation Unit of EPRS, to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.

Summary

Following the creation of an internal market, in which goods should be able to circulate freely to the benefit of producers, traders and consumers alike, the digital revolution has both increased the chances for growth in trade and highlighted the existing obstacles, such as differences in the details of consumer protection legislation. Following an extensive evaluation exercise focused on a number of EU directives adopted over the years, the European Commission is keen to simplify, streamline and modernise the existing EU consumer rules to ensure that they are future-proof, as well as to facilitate the necessary coordination and effective action from national authorities and public enforcement bodies.

In its 2018 work programme, the European Commission announced that it would be introducing a package of legislative proposals including a wide range of proposed directives. The package¹ is aimed at filling a number of very specific gaps in current EU consumer law, while also taking due account of ongoing legislative procedures related to online and offline sales of goods and digital content. This implementation appraisal aims to cover all the directives (cf. tables 1-7) that form the basis of the area targeted by the package.

1. Background

Consumer protection has been, and remains, an increasingly important EU policy area. Numerous legislative acts deal with its specific aspects within the framework of the functioning of the internal market (currently regulated by Article 114 of the Treaty on the Functioning of the European Union, TFEU). An additional legal basis for consumer protection – Article 169 TFEU (so far only used for the establishment of the Consumer Programme 2014-2020) – was introduced by the Maastricht Treaty in 1992.

In 2015, it was estimated that around 90 directives covered consumer protection issues,² mostly on the basis of the principle of minimum harmonisation, which meant that the level of protection across the EU was only aligned to a certain extent. In addition to legal acts, a number of policy initiatives have been developed and improved over time, including EU-wide monitoring tools, awareness-raising campaigns and instruments of cooperation between relevant authorities and bodies.³

¹ Published on 11 April 2018 - see https://ec.europa.eu/info/law/law-topic/consumers/review-eu-consumer-law_en

² J. Valant, [Consumer protection in the EU: Policy overview](#), EPRS in-depth analysis, September 2015.

³ NB: the Consumer Protection Cooperation Regulation 2006/2004 has recently been revised ([COD\(2016\)0148](#)) and the new [Regulation \(EU\) 2017/2394](#) will apply from 17 January 2020.

The Consumer Rights Directive (CRD) was adopted in 2011, with a significantly limited scope compared to the original aim of revising the most important elements of the consumer *acquis* and bringing their content into a single act. Following a failed attempt to establish an additional optional instrument through a Common European Sales Law regulation proposed in 2011, the Commission put forward two separate legislative proposals in December 2015 – one concerning the rules on the sales of goods and the other concerning the supply of digital content – to bring the European single market up to date with regard to the digital world.⁴ At the same time, the Commission undertook an extensive fitness check (REFIT) of consumer law and presented the final results in May 2017.

Although the legislative procedures concerning contracts for [the online and other distance sales of goods](#)⁵ and for [the supply of digital content](#) are still on-going, the Commission has committed to preparing and proposing targeted amendments to a number of legislative acts already in force, to be made on the basis of the results of the above-mentioned REFIT exercise and a separate evaluation of the CRD. The relevant point in the Commission's 2017 work programme was entitled 'Consumer Law',⁶ but following the presentation of the Commission president's [letter of intent](#) in September 2017, it was renamed 'the New Deal for Consumers', and has since been scheduled for adoption by the College on 11 April 2018.⁷

The legislative acts that were expected to be affected by this new package are listed at the end of this briefing, along with basic information on their adoption and review. The documents referred to below might relate to all or only some of these acts. Regardless of whether it is the earlier or the more recently adopted acts that are being examined, the present briefing provides references to the latest studies and position papers on them.

2. EU-level reports, evaluations and studies

2.1 European Commission reports, inception impact assessments and studies

• Evaluation and fitness check of consumer law – roadmap (December 2015)

Following the introduction of the evaluation and fitness check as a new policy evaluation tool – and taking into account the political priorities set out in a number of acts covering *inter alia* consumer protection, the Commission announced its intention to undertake a 'fitness check of legal acts related to consumer rights and advertising' in its 2013 [REFIT communication](#). The detailed scope of this exercise was set out in the [roadmap](#), published at the end of 2015, and included seven acts (see tables further down) that were then expected to be subjected to limited legislative review.

The roadmap stressed the general character of the directives to be assessed, and envisaged an analysis of their coherence with the specific rules established by sectoral legislation. It mentioned reporting obligations resulting in subsequent reports and communications, together with the relevant references, and included a general disclaimer that the respective findings might be outdated due to changes made in the meantime in national legislation. Importantly, the Commission stressed that unfair contract terms and misleading marketing practices constituted the majority of consumer complaints received within the area of general consumer law, and clarified the structure of the evaluation studies and consultations to be undertaken in the following months (the planned completion date for this fitness check was the second quarter of 2017).

⁴ R. Mańko, [Towards new rules on sales and digital content](#): Analysis of the key issues, EPRS in-depth analysis, March 2017.

⁵ NB: the Commission replaced its original proposal with a new one in October 2017, in order to extend its scope to face-to-face sales (as suggested in the amendments adopted by the European Parliament).

⁶ Point 17, Annex 2 of [COM\(2016\) 710 final](#).

⁷ See, for example, [SEC\(2018\) 2244 final](#), p. 3.

• Report on the fitness check of consumer and marketing law (May 2017)

Taking into account the wide time span over which the analysed directives were adopted, the fitness check [report](#)⁸ relied on Eurobarometer data showing that, while consumer trust in traders and cross-border shopping had steadily increased, the average incidence of problems reported by consumers (20-21 %) in 2008 and 2016 was almost identical.

The report found that the objectives and content of the consumer law directives are still relevant to ongoing market developments and trends in consumer behaviour, and that they contribute to increasing the level of consumer protection in many Member States. It also pointed to the fact that EU-wide infringements of consumer rights will continue to require enforcement action at the European level, and that common rules help coordinate the work of the national enforcement authorities. The examination of the coherence of the six directives (not including the CRD) with other EU action on consumer protection stressed their consistency in acting as a horizontal 'safety net' for matters not regulated in sector-specific legislation, while underlining that it would be preferable for the same rules to apply to both online and offline sales. With regard to efficiency, all stakeholder groups reportedly agreed that the directives under evaluation brought significant benefits for consumer protection and cross-border trade.

A loophole was identified in the Consumer Sales and Guarantees Directive with regard to the protection of consumers against the provision of defective digital content, and this issue was addressed by the legislative proposals tabled in December 2015. Another gap identified was the lack of direct consumer rights to individual remedies under the Unfair Commercial Practices Directive (UCPD) and the need to strengthen the level of penalties for breaches of EU consumer law. The possible extension of the scope of the Injunctions Directive was linked to the recently adopted Directive 2013/11/EU on alternative dispute resolution for consumer disputes, the review of the Consumer Protection Cooperation (CPC) Regulation, and the assessment of the 2013 Recommendation on collective redress (see below). In an attempt to simplify the relevant EU legislation, it was proposed that some of the information requirements provided in the UCPD be reduced in view of their duplication in the Consumer Rights Directive.

The report concluded that in order to achieve the consumer protection objectives of the directives, awareness of existing rules among consumers, traders and enforcement bodies should further increase.

• Evaluation of the Consumer Rights Directive (May 2017)

In accordance with Article 30 of the CRD (albeit with a slight delay, as its provision contained the date of 31 December 2016), the Commission published a [report](#)⁹ on the application of this act at the same time as it published the complementary results of the fitness check mentioned above. The document, based on an external study¹⁰ and a broad consultation, acknowledged that not enough time had elapsed for a proper evaluation, but presented the legislative choices made by the Member States with regard to those provisions that were not covered by maximum harmonisation. The overall transposition of the CRD proved to be problematic, as most Member States had failed to transpose several definitions and key terms in their national law, and the Commission had resorted to using various tools (especially EU Pilot and infringement procedures, as well as a guidance document), to ensure compliance.

Among the key conclusions of the evaluation, the new CRD rules were nevertheless said to serve the main objectives of enhancing consumer protection and reducing regulatory fragmentation. The limited amount of available data did not allow the Commission to make definitive conclusions about the level of costs faced by businesses in ensuring compliance, but the lack of data was listed among the issues hampering the effectiveness of the CRD, alongside some difficulties with interpretation, lack of public awareness, and differing levels of penalties among Member States.

⁸ SWD(2017) 209 final.

⁹ COM(2017) 259 final.

¹⁰ Available, among other documents, at http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=59332.

More specifically, the CRD laid down – among other provisions – specific pre-contractual information requirements and rules on the withdrawal from contracts for purely digital content for the first time in EU consumer and marketing law. The evaluation reported that, notwithstanding the guidance issued by the Commission, some stakeholders considered that the application of CRD to 'free' digital content was not yet clear. Consequently, the report proposed to expand the CRD's scope to also cover digital services provided free of charge, and to consider introducing transparency requirements for online intermediaries.

• Inception impact assessment on the targeted revision of the EU consumer law directives (June 2017)

The fitness check of EU consumer and marketing law, together with the evaluation of the CRD, led the Commission to consider improving three elements: awareness, enforcement and redress opportunities. The problems to be addressed by increased policy efforts and/or new legislative proposals were listed in two separate inception impact assessments (IIAs) – [one on the revision of EU consumer law](#) in June 2017, and second on the revision of the Injunctions Directive in October 2017 (see below).

The following specific problems were identified in the area of consumer law:

- consumers are unaware of their rights, especially when buying via online platforms;
- pre-contractual information requirements and the right of withdrawal under the CRD, do not apply to online services supplied in exchange of data;
- there are administrative burdens related to advertising and the pre-contractual stage;
- the consumer's right to return a product without the trader having the possibility to inspect it is being abused;
- national remedies are not used in practice;
- there are different penalties for lack of compliance;
- there are some superfluous environmental claims.

Overall, the expected amendments to the existing directives are intended to reduce consumer harm and improve consumer trust in the market, hopefully leading to further increase in cross-border trade and the completion of the Single Market, including a contribution to establishing a level playing field for traders and to lowering their costs.

The IIA on consumer law also mentioned that business-to-business (B2B) relations would be dealt with separately, although it listed the Misleading and Comparative Advertising Directive (MCAD) among the acts to be revised.

• Inception impact assessment on the revision of the Injunctions Directive (October 2017)

[This IIA](#) also contributes to the preparation of anticipated legislative proposals, basing itself on the belief that breaches of consumer law affecting multiple persons should be subject to more effective means to stop them and to remedy damages.

The inception impact assessment refers to diverging and/or inadequate solutions for collective injunctions and redress in the EU Member States, arguing that this situation gives rogue traders an advantage over compliant ones, to the detriment of consumers in a growing number of economic sectors. A few examples (including the 2015 'Dieselgate' scandal) are mentioned in the context of a globalised and digitalised market. The limited effects of the Injunctions Directive, which was adopted in 1998, are linked to the high costs, length and lack of direct effect of the relevant procedures on harmed consumers.

The planned revision of the Injunctions Directive, which could further harmonise the legal framework for qualified entities (such as consumer organisations) to act in the interest of a large number of harmed consumers, is also directly related to the evaluation of the 2013 recommendation on collective redress (see next point).

- **Report on the implementation of the 2013 Recommendation on collective redress (January 2018)**

The [Recommendation on collective redress](#) was published at a time when many consumer organisations were already advocating the adoption of binding European legislation on that subject. In it, the Commission called on Member States – in a non-binding way – to establish injunctive and compensatory collective relief, including the facilitation of cross-border cases.

The [report](#)¹¹ analysed legislative developments in the Member States since the adoption of the recommendation, and assessed whether these developments had led to a more widespread and coherent application of the principles it contained. It also examined the practical experience gathered while applying the national rules on collective redress, or – in the absence of such rules – the level of effectiveness in addressing situations of mass harm.

In its conclusions, the report stated that the recommendation constituted an important reference point in national discussions on facilitation of access to justice and prevention of abusive litigation. However, the report also highlighted that only a handful of Member States had actually adopted or modified their legislation in accordance with the principles proposed in the recommendation. Nine countries still do not provide for any possibility to collectively claim compensation in mass harm situations, and in those that do, the rigid conditions, lengthy nature of procedures, and/or perceived excessive costs in relation to the expected benefits limit its use in practice.

- **Evaluation study of national procedures in terms of their impact on the free circulation of judgements and on the equivalence and effectiveness of the procedural protection of consumers under EU law (June 2017)**

The [study](#), prepared by a consortium of European universities led by the Max Planck Institute Luxembourg for Procedural Law, examined what obstacles to mutual trust exist between EU Member States and to what extent their existing procedural laws and practices ensure the effective procedural protection of consumers.

Having underlined that substantial EU consumer law is applied and enforced in the context of the national procedural laws of the Member States, the study found considerable inequalities and shortcomings in the application of European law in the national judicial systems. It also pointed to difficulties faced by national courts in understanding and implementing the case law of the Court of Justice of the European Union concerning procedural consumer protection.

The report advised the creation of minimum standards of consumer protection in civil proceedings in order to improve consumers' access to justice and increase legal certainty and transparency in these proceedings, and the introduction of procedural requirements with regard to the obligation on the part of the national court to apply and implement EU consumer law *ex officio*.

2.2 European Parliament's analyses and studies

[EU Mapping: Overview of IMCO-related legislation](#) – Study by Policy Department A, March 2015. This paper, prepared together with the secretariat of the Committee on Internal Market and Consumer Protection (IMCO), provides a graphic overview of the core legislation in the area of internal market and consumer protection, including the legislative acts covered by the present implementation appraisal.

[Overview of existing collective redress schemes in EU Member States](#) – Briefing by Policy Department A, July 2011. This paper presents the rationale and relevance of collective redress schemes, including an overview of their existence in EU Member States and developments at the EU level. The paper identifies significant differences in the Member States' approach towards collective redress, with important consequences for European consumers' equal access to justice.

¹¹ COM(2018) 40 final.

3. European Parliament positions

3.1 Resolutions of the European Parliament

- **European Parliament resolution of 13 January 2009 on the UCPD and the MCAD**

In its [resolution](#), Parliament stressed the importance of the UCPD and the MCAD in making consumers and traders more confident in engaging in cross-border transactions, and underlined that proper transposition, implementation and enforcement is crucial in order to achieve the aims of those two directives.

- **European Parliament resolution of 2 February 2012 on collective redress**

The [resolution](#) considered that the integration of European markets and the consequent increase in cross-border activities highlight the need for a coherent EU-wide approach to addressing cases where consumers are left empty-handed, as the procedures for the collective claim of compensatory relief that have been introduced in a number of Member States, do not provide for cross-border solutions.

- **European Parliament resolution of 11 June 2013 on a new agenda for European consumer policy**

In response to a [communication](#) of the Commission, this [resolution](#) recalled that the promotion and protection of consumers and their rights are core Union values, and proposed that the European Consumer Agenda cover *inter alia* strengthening awareness and knowledge of consumer rights, and their improved implementation and enforcement. It also reiterated Parliament's support for the creation of a Union-wide coherent collective redress mechanism applicable to cross-border cases.

- **European Parliament resolution of 4 February 2014 on the implementation of the UCPD**

In this [resolution](#), Parliament recalled that disparities in the application of this directive risk impairing its effectiveness, and reasserted the importance of its full and uniform application by Member States in order to eliminate legal and operational uncertainties for businesses operating across borders.

- **European Parliament resolution of 22 October 2013 on misleading advertisement practices**

This [resolution](#) called on the Commission and the Member States to step up their efforts in terms of raising awareness, while also strengthening cooperation and enforcement. Parliament supported the Commission's intention to investigate the possibility of introducing an EU-wide blacklist of misleading marketing practices and companies that have been repeatedly convicted for such practices, while maintaining coherence with the Unfair Commercial Practices Directive.

3.2 Other important events

On 17 October 2016, a [European Consumer Summit](#) was held in Brussels under the title 'EU consumer law: still fit for purpose? Achievements and challenges'. Around 450 representatives of national authorities, EU institutions, consumer organisations, businesses and academics discussed issues concerning consumer information requirements, the fairness of commercial practices and contractual terms, and ways to enhance the effectiveness of the injunction procedure. In her speech at this event, MEP Vicky Ford, IMCO chair at the time, underlined the need for a focus on the implementation of existing law and on eliminating any remaining gaps in a targeted way. She also referred to new legislative proposals planned by the Commission in the area of the Digital Single Market, and appealed for common definitions and an interconnected approach to avoid separate interventions and unnecessary red tape.

The results of the summit were presented and discussed during the [IMCO meeting of 29 November 2016](#) within the 'legislative scrutiny time' format (point 13 on the agenda).

4. Council and European Council

In its [conclusions](#) of 28 June 2016, the European Council called for swift and determined progress to bring the full benefits of the Digital Single Market to all stakeholders through, *inter alia*, removing barriers to e-commerce. It also considered that better implementation and enforcement of existing legislation would further help to reap the benefits of Europe's Single Market ambitions. One year later, it [called](#) on the Commission to pursue its reflections on innovative ways to address new opportunities, challenges and remaining barriers, in order to evolve towards a future-proof and fair single market.

The results of the fitness check of consumer law were discussed by the [Competitiveness Council](#) on 29-30 May 2017, where some Member States requested that any new harmonisation measures be considered carefully in order to avoid lowering the level of consumer protection and overburdening businesses. In its [conclusions](#) of 19 October 2017, the European Council highlighted the objective of creating a more integrated Single Market and of delivering practical benefits for European citizens and businesses. It called on the EU institutions to step up the legislative work, and on the Member States to implement the relevant legislation and to take all the measures required within their sphere of competence so as to shape the new digital era. The specific legislative acts covered by this briefing were not explicitly mentioned.

5. Court of Justice of the EU

The extensive case law of the Court of Justice (CJEU) concerns all of the directives covered by this implementation appraisal, including infringement cases against Members States' late or incomplete transposition, and responses to national courts' preliminary questions. Among the better known of the latter with regard to the UCTD are those cases ([C-240/98](#), [C-137/08](#) and [C-618/10](#)) where national judges are empowered, or even obliged, to rule on the possible inadmissibility of contractual terms. The judgment in case [C-476/14](#) introduced an obligation to include in the price of a motor vehicle the additional costs necessarily incurred in connection with the transfer of the vehicle.

With regard to the Consumer Sales and Guarantees Directive mentioned above, an important interpretation of its Article 3 was made by the Court in case [C-404/06](#), namely that it precludes national legislation under which a seller who has sold goods that are not in conformity may require the consumer to pay compensation for the use of these goods until their replacement. A number of cases (especially preliminary questions) are currently open with regard to the UCPD and the Consumer Rights Directive.

6. European Economic and Social Committee

The European Economic and Social Committee (EESC) is strongly involved in consumer-related measures, and its annual event – the [European Consumer Day](#), held for the twentieth time in March 2018 – illustrates this fact. Apart from adopting opinions on current legislative proposals, such as the one on [digital contract rights](#), the EESC also undertakes work with respect to the implementation of existing law. The perception and experience of EU civil society organisations in the implementation of the Consumer Rights Directive was the subject of an [opinion](#) adopted in December 2016, which considered that a large number of consumers and small and medium enterprises are still not aware of the directive's specific provisions.

The EESC own-initiative [opinion](#) on consumer vulnerability in business practices in the single market, adopted in October 2014, identified the uneven transposition of the UCPD as a risk that dilutes its intended purpose and fails to ensure greater legal certainty for undertakings.

In its [opinion](#) on the EU framework for collective redress, adopted in December 2013, the EESC regretted that the European Commission had not issued a proposal for a directive.

7. European Commission consultations

Following the publication in May 2017 of the results of both the fitness check of consumer and marketing law, and the evaluation of the Consumer Rights Directive, a public consultation on the targeted revision of the **EU consumer law directives** was open from 30 June to 8 October 2017. Changes to the rules on misleading and comparative advertising in business-to-business relations (to be dealt with in the framework of the Digital Single Market), as well as the possible revision of the Injunctions Directive (to be assessed separately – see below), were excluded from its scope. According to the [summary of the main results](#), published in early February 2018, the stakeholders largely supported the increased transparency on online marketplaces. The majority supported extending rights to pre-contractual information and rights of withdrawal to 'free' digital services (with significant differences of opinion between consumer organisations and businesses), and agreed that differences between national rules on UCPD remedies create costs for traders engaging in cross-border trade and harm to consumers. Introducing stronger EU rules on penalties (including fines and common criteria) was supported by consumer organisations and most national authorities, but not by business associations. With regard to the right of withdrawal from distance and off-premises contracts, 35 % of online companies reported significant problems due to current CRD requirements, and as many as 90 % of business associations indicated that traders face a disproportionate/unnecessary burden due to these obligations.

The [public consultation](#) on the revision of the **Injunctions Directive** was held from 31 October to 28 November 2017, and the contributions provided by various entities are available on the Commission website. For instance, the business association EuroCommerce stated that any new procedure must ensure that it does not add extra costs to businesses that comply with the law (and ultimately to consumers), and that the principle of proportionality be respected. It also expressed doubts about combining the injunctions procedure with the compensatory procedure such as collective redress. The European Consumer Organisation (BEUC), on the other hand, stressed its support for improving existing injunction procedures and introducing an obligatory consumer collective redress procedure in all EU Member States.

The Commission consulted stakeholders separately on the possible revision of the **Price Indication Directive** in 2006/2007.¹² The majority of EU countries and consumer stakeholders supported eliminating or limiting in time the possibility to exempt small businesses from the obligation of indicating the unit price. Moreover, most countries agreed that the unit price constitutes valuable information for consumers. Some respondents even suggested that consumers are more acutely in need of complete price information when buying from small retail businesses. Member States acknowledged that there might be an additional burden on small retail businesses to comply with the directive. Technological solutions were seen as the most appropriate means of easing this burden over time. In the meantime, the burden on small retail businesses was still viewed as reasonable and proportionate.

8. Stakeholders

The publication of the two inception impact assessments by the Commission in June and October 2017 led to a number of contributions from stakeholders, now available under the links provided above.¹³

BEUC is one of the major organisations closely watching the development of EU consumer law. In April 2017, it presented a [position paper on injunctions](#), in which it underlined the importance of these procedures in the fight against illegal practices and proposed a number of ways in which they could be improved (such as informative actions of the trader, procedural guarantees for consumers, and limiting the costs in cross-border

¹² For a summary of the responses, see COM (2006) 325 final.

¹³ Interestingly, there are twice as many on the revision of the [Injunction Directive](#) (24) as with regard to general [consumer law](#) (12).

cases). In its [contribution on collective redress](#), published in July 2017, BEUC stressed that the 2013 recommendation did not produce the necessary results for access to justice and compensation in mass claims situations in Europe, and proposed numerous ideas for minimum EU requirements to be introduced via a legislative measure. More recently (March 2018), BEUC presented an extensive compilation of recommendations for [plugging the gap in consumer rights](#) on the basis of the results of the Commission's fitness check, especially with regard to enforcement and redress mechanisms. Legal and practical reasons for expanding collective redress in order to guarantee the effective enforcement of EU law were additionally provided in a December 2017 [briefing](#) on 'EU Law for Collective Redress – Case for the environment, human rights and fair competition' by the **European Coalition for Corporate Justice (ECCJ)**.

EuroCommerce, representing traders' interests, expressed support for harmonising rules on consumer guarantees and contracts for the online and offline sale of goods in its statement issued on the occasion of World Consumer Day (15 March 2018). In view of the entry into force of the Geoblocking Regulation,¹⁴ it underlined that a simple, harmonised and balanced legal framework of consumer protection is necessary for traders to fully engage in offering goods online, to build consumer trust and to allow everyone to benefit from the single market. Another business association, **E-commerce Europe**, also stressed the need for balanced solutions, taking into account the costs for businesses to adapt to the new rules when implemented.¹⁵ Its recommendations with regard to the legislative proposals made in December 2015 in relation to the Unfair Contract Terms Directive and the Consumer Sales and Guarantees Directive on the one hand, and the review of the Consumer Rights Directive, on the other, were set out in a [position paper on consumer policies](#) in March 2016, and also included – among other issues – in its manifesto on [Milestones to achieve a Digital Single Market](#), published in June 2017.

9. Petitions

Numerous petitions concerning consumer and marketing law have been received over the years by the Parliament's Petitions Committee. The clarifications received from the Commission have addressed cases in which private individuals or representatives of consumer organisations claimed that certain countries failed to implement the consumer law directives (e.g. petitions 0030/2008 and 0786/2015). The competence and responsibility of the national courts to assess factual elements of a given case were underlined with regard to contractual terms or commercial practices that could well be considered unfair (such as in petitions 0945/2014, 1689/2014 and 1703/2014), and with regard to assessing compliance with national laws implementing the Consumer Rights Directive (petition 0858/2016). In other cases, in response to alleged injustice in the treatment by a trader, the relevant legislative acts and/or resolutions of the European Parliament were provided to the petitioner, alongside a recommendation to contact national consumer protection organisation or body. A few petitions proposed a much more legal intervention at the European level, such as the one that called *inter alia* for prohibiting the discounts on a manufacturer's 'recommended retail price' (1346/2007).

10. Other sources of reference

[Study](#) on the State of Collective Redress in the EU in the context of the implementation of the Commission recommendation, The British Institute of International and Comparative Law, November 2017.

[Study](#) on the application of Directive 2009/22/EC on injunctions for the protection of consumers' interests (former Directive 98/27/EC), Jens Karsten, December 2011.

¹⁴ Regulation (EU) 2018/302, OJ L 60I, 2.3.2018, p. 1.

¹⁵ See <https://www.ecommerce-europe.eu/news-item/european-commission-discusses-new-deal-consumers-package-business-consumer-organization/>.

Table 1 – [Council Directive 93/13/EEC](#) on unfair terms in consumer contracts (UCTD)

EP committee responsible at the time of adoption of the EU legislation: Legal Affairs and Citizens' Rights (JURI)
Date of adoption of the original legislation: 5 April 1993 (2011 consolidated text)
Transposition date: 31 December 1994
Planned dates for review: In accordance with Article 9, the European Commission was to present a report on the application of this directive by the end of 1999 at the latest. This report was eventually published in April 2000.
Timeline for the new amending legislative proposal: 11 April 2018

This directive introduced the notion of 'good faith' to prevent imbalances in the rights and obligations of consumers, on the one hand, and sellers and suppliers, on the other hand its annex contains an indicative and non-exhaustive list of the terms that may be regarded as unfair (and thus not binding for consumers). The UCTD also requires contractual terms to be drafted in plain and intelligible language, and states that ambiguities should be interpreted in favour of consumers.

Table 2 – [Directive 98/6/EC](#) on consumer protection in the indication of the prices of products offered to consumers (Price Indication Directive)

EP committee responsible at the time of adoption of the EU legislation: Environment, Public Health and Consumer Protection (ENVI)
Date of adoption of the original legislation in plenary: 16 December 1997 (1995/0148(COD))
Transposition date: 18 March 2000
Planned dates for review: In accordance with Article 12, the European Commission was to present a comprehensive report on the application of this directive not later than 18 March 2003. This report was eventually published in June 2006.
Timeline for the new amending legislative proposal: 11 April 2018

The Price Indication Directive requires the selling price and the unit price of all products offered by traders to consumers to be clearly indicated in order to improve consumer information and to enable price comparisons. It repealed earlier directives on foodstuff prices (79/581/EEC) and on non-food product prices (88/314/EEC).

Table 3 – [Directive 1999/44/EC](#) on certain aspects of the sale of consumer goods and associated guarantees (Consumer Sales and Guarantees Directive)

EP committee responsible at the time of adoption of the EU legislation: Environment, Public Health and Consumer Protection (ENVI)
Date of adoption of the original legislation in plenary: 5 May 1999 (1996/0161(COD))
Transposition date: 1 February 2002
Planned dates for review: In accordance with Article 12, the European Commission was to submit a report on the application of this directive, examining especially the case for introducing the producer's direct liability, not later than 7 July 2006. This report was published in April 2007.
Timeline for the new amending legislative proposal: 11 April 2018

According to the provisions of the Consumer Sales and Guarantees Directive, sellers of consumer goods in the EU have to guarantee that the goods correspond to the description in the contract for a period of two years after delivery. If the goods do not correspond to the contract, consumers can ask them to be repaired, replaced or reduced in price, or for the contract to be annulled.

The [new legislative proposal](#) on certain aspects concerning contracts for the sales of goods, published in October 2017, takes as a basis the rules of the Consumer Sales and Guarantees Directive, which is proposed to be repealed: it provides for a full harmonisation of the conformity criteria for the goods, the hierarchy of the remedies available to consumers, and the modalities on how to exercise these remedies.

Table 4 – [Directive 2005/29/EC](#) concerning unfair business-to-consumer commercial practices in the internal market (UCPD)

EP committee responsible at the time of adoption of the EU legislation: Internal Market and Consumer Protection (IMCO)
Date of adoption of the original legislation in plenary: 24 February 2005 (2003/0134(COD))
Transposition date: 12 June 2007
Planned dates for review: In accordance with Article 18(1), the European Commission was to submit a comprehensive report on the application of this directive by 12 June 2011. Following an extensive study, this report was published in March 2013.
Timeline for the new amending legislative proposal: 11 April 2018

The objective of this directive was to boost consumer confidence and make it easier for businesses, especially small and medium-sized enterprises, to do trade across borders. The UCPD enabled national enforcers to put an end to a broad range of unfair business practices, as listed in its annex, including the provision of untruthful information to consumers or aggressive marketing techniques to influence their choices.

In May 2016, the Commission presented an updated version of the 2009 [guidance](#) document on the application of the UCPD, in order to facilitate the proper application of its key concepts and provisions. The guidance includes practical examples from the case law of the CJEU and the national courts, as well as from Member States' administrations.

Table 5 – [Directive 2006/114/EC](#) concerning misleading and comparative advertising (MCAD)

EP committee responsible at the time of adoption of the EU legislation: Internal Market and Consumer Protection (IMCO)
Date of adoption of the original legislation in plenary: 12 October 2006 (2006/0070(COD))
Entry into force: 12 December 2007 – this codification directive repealed three previous ones (especially Directive 84/450/EEC) without modifying their respective deadlines for transposition.
Planned dates for review: Not included in the directive; a communication on the review of MCAD was published in November 2012.
Timeline for the new amending legislative proposal: tbc

The purpose of the MCAD is to protect traders against misleading advertising and its consequences. Its rules also lay down the conditions under which comparative advertising is permitted. Since the directive on unfair commercial practices is in place, the MCAD has been applied only to business-to-business (B2B) relations, although the provisions on comparative advertising also apply to actions directed at consumers.

This directive is not directly affected by the package published on 11 April 2018.

Table 6 – [Directive 2009/22/EC](#) on injunctions for the protection of consumers' interests (Injunctions Directive)

EP committee responsible at the time of adoption of the EU legislation: Legal Affairs (JURI)
Date of adoption of the original legislation in plenary: 19 June 2007 (2003/0099(COD))
Entry into force: 29 December 2009. This codification directive replaced Directive 98/27/EC on injunctions for the protection of consumers' interests, which had been substantially amended several times since its adoption.
Planned dates for review: In accordance with Article 6(1) of Directive 98/27/EC, the European Commission was to submit a report on the application of this directive every three years, starting with the first no later than 2 July 2003. Two reports have been published so far: in November 2008 (with the delay due to the 2004 and 2007 enlargement of the EU) and in November 2012 .
Timeline for the new amending legislative proposal: 11 April 2018

When a trader infringes consumer rights, public authorities or consumer organisations can apply for an injunction to stop the malpractice. An injunction is an order granted by a court or an administrative body that defends the collective interests of consumers in the internal market. An injunction is applied in the country where the infringement originated, but protects consumers across the EU.

Table 7 – [Directive 2011/83/EU](#) on consumer rights (CRD)

EP committee responsible at the time of adoption of the EU legislation: Internal Market and Consumer Protection (IMCO), with the association of Legal Affairs (JURI).
Date of adoption of the original legislation in plenary: 23 June 2011 (2008/0196(COD))
Transposition date: 13 December 2013 (application in the Member States: 13 June 2014)
Planned dates for review: In accordance with Article 30, the Commission was to submit a report on the application of the CRD, including an evaluation of the provisions regarding digital content and the right of withdrawal, by 13 December 2016. The evaluation report is mentioned in detail above (third point under 2.1.).
Timeline for the new amending legislative proposal: 11 April 2018

The overall objective of the CRD was to achieve a high level of consumer protection across the EU and to contribute to the proper functioning of the internal market by approximating certain aspects of the Member States' laws, regulations and administrative provisions concerning contracts concluded between consumers and traders. It aligned and harmonised the national rules on the information consumers need to be given before making a purchase, and their right to cancel online purchases. The European Commission published a [guidance document](#) to facilitate the effective application of the CRD, including a template to help traders provide consumer information about online digital products. A number of Member States were late with their transposition of the CRD and it became applicable in all EU countries only from the end of 2014.

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