



2015/0288(COD)

7.3.2017

AMENDMENTS

40 - 212

Draft opinion
Heidi Hautala
(PE594.153v01-00)

Contracts for the online and other distance sales of goods

Proposal for a directive
(COM(2015)0635 – C8-0391/2015 – 2015/0288(COD))

Amendment 40
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Title 1

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on certain aspects concerning contracts for
the *online and other distance sales of
goods*
(Text with EEA relevance)

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on certain aspects concerning contracts for
the *sales of goods and repealing Directive
1999/44/EC*
(Text with EEA relevance)

Or. en

Amendment 41
Constance Le Grip

Proposal for a directive
Title 1

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on certain aspects concerning contracts for
the *online and other distance sales of
goods*

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on certain aspects concerning contracts for
the *sale of goods and repealing Directive
1999/44/EC*
(Text with EEA relevance)

Or. fr

Amendment 42
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) In order to remain competitive on

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Amendment

(1) In order to remain competitive on

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PE600.964v01-00

global markets, the Union *needs to successfully answer the multiple challenges raised today by an increasingly technologically-driven economy. The Digital Single Market Strategy³⁸ lays down a comprehensive framework facilitating the integration of the digital dimension into the Single Market. The first pillar of the Strategy tackles fragmentation in intra-EU trade by approaching all major obstacles to the development of cross-border e-commerce.*

global markets, the Union *should remove obstacles to cross-border economic activity that prevent the internal market from exploiting its full potential for growth and the creation of quality jobs and to meet the challenges of an increasingly technologically-driven economy.*

³⁸ COM(2015) 192 final.

Or. en

Amendment 43

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) Article 169(1) and point (a) of Article 169(2) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU.

Or. en

Amendment 44

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 1 b (new)

Text proposed by the Commission

Amendment

(1 b) Article 38 of the Charter of Fundamental Rights of the European

Union provides that Union policies are to ensure a high level of consumer protection and Article 47 of the Charter provides that everyone whose rights under Union law are violated shall have the right to an effective remedy. Article 16 of the Charter recognises the freedom to run a business in accordance with Union and national law and practices.

Or. en

Amendment 45
Daniel Buda

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for sales of goods, taking as a base a high level of consumer protection, is necessary.

Amendment

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for sales of goods, taking as a base a high level of consumer protection is necessary, *as is an enterprise-friendly environment, through the facilitation of cross-border sales, ensuring legal certainty and avoiding unnecessary costs.*

Or. ro

Amendment 46
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) For the achievement of a genuine digital single market, the harmonisation of certain aspects concerning contracts for sales of goods, taking as a base a high level of consumer protection, *is necessary.*

Amendment

(2) For the achievement of a genuine *and well-functioning internal* digital single market, the harmonisation of certain aspects concerning contracts for sales of goods, taking as a base a high level of consumer protection, *while recognising Member States' competences within the*

Union, is justifiable.

Or. en

Amendment 47
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) Differences in national mandatory consumer contract law rules are an essential pre-condition for a learning process within the Union, whereas a maximum harmonisation approach would bear the risk of making contractual law non-responsive to swift technological or behavioural developments and changes. This is because maximum harmonisation would prevent Member States from adopting more stringent rules in their national laws and would thus prevent them from quickly and adequately responding to new business practices detrimental to consumers. Sellers willing to trade goods cross-border would benefit highly from the Union's harmonisation efforts, despite a minimum harmonisation approach. This gives the Union the opportunity to harmonise this area of law and set common (high) standards, while acknowledging that Member States may want to maintain certain national provisions. Business-to-business transactions are regulated differently in each Member State and should remain outside the scope of this Directive.

Or. en

Amendment 48
Daniel Buda

Proposal for a directive
Recital 3

PE600.964v01-00

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(3) E-commerce is the main driver for growth within the Digital Single Market. However its growth potential is far from being fully exploited. In order to strengthen Union competitiveness and to boost growth, the Union needs to act swiftly and encourage economic actors to unleash the full potential offered by the Digital Single Market. The full potential of the Digital Single Market can only be unleashed if all market participants enjoy smooth access to the online sales of goods and are able to confidently engage in e-commerce transactions. The contract law rules on the basis of which market participants conclude transactions are among the key factors shaping business' decisions whether to offer goods online cross-border. Those rules also influence consumers' willingness to embrace and trust this type of purchase.

(3) E-commerce is the main driver for growth within the Digital Single Market. However its growth potential is far from being fully exploited. In order to strengthen Union competitiveness and to boost growth, the Union needs to act swiftly and encourage economic actors to unleash the full potential offered by the Digital Single Market. The full potential of the Digital Single Market can only be unleashed if all market participants enjoy smooth access to the online sales of goods and are able to confidently engage in e-commerce transactions. The contract law rules on the basis of which market participants conclude transactions are among the key factors shaping business' decisions whether to offer goods online cross-border. Those rules also influence consumers' willingness to embrace and trust this type of purchase. ***In concrete terms, those rules affect supply and demand, which have a direct impact on the main macroeconomic variables in each Member State and in the EU as a whole.***

Or. ro

Amendment 49

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 3

(3) E-commerce is ***the main*** driver for growth within the Digital Single Market. However its growth potential is far from being fully exploited. ***In order to strengthen Union competitiveness and to boost growth, the Union needs to act swiftly and encourage economic actors to unleash the full potential offered by the Digital Single Market.*** The full potential of the Digital Single Market can only be

(3) E-commerce is ***a key*** driver for growth within the Digital Single Market. However its growth potential is far from being fully exploited. The full potential of the Digital Single Market can only be unleashed if all market participants enjoy smooth access to the online sales of goods and are able confidently ***to*** engage in e-commerce ***transactions. Contracts are an indispensable legal tool for most***

unleashed if all market participants enjoy smooth access to the online sales of goods and are able *to* confidently engage in e-commerce transactions. The contract law rules on the basis of which market participants conclude transactions are among the key factors shaping business' decisions whether to offer goods online cross-border. Those rules also influence consumers' willingness to embrace and trust this type of purchase.

economic transactions. The contract law rules on the basis of which market participants conclude transactions are among the key factors shaping business' decisions whether to offer goods online cross-border. Those rules also influence consumers' willingness to embrace and trust this type of purchase.

Or. en

Amendment 50
Jean-Marie Cavada

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) While online sales of goods constitute the vast majority of distance sales in the Union, this Directive should cover all distance sales channels, including phone and mail orders, in order to avoid any unjustified distortions of competition and to create a level playing field for all businesses selling at a distance.

Amendment

(4) ***This Directive should cover all contracts for the sale of goods concluded between a consumer and a seller, including distance sales contracts.*** While online sales of goods constitute the vast majority of distance sales in the Union, this Directive should cover all distance sales channels, including phone and mail orders, in order to avoid any unjustified distortions of competition and to create a level playing field for all businesses selling at a distance.

Or. fr

Amendment 51
Daniel Buda

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) While online sales of goods constitute the vast majority of distance sales in the Union, this Directive should

Amendment

(4) While online sales of goods constitute the vast majority of distance sales in the Union, this Directive should

cover all distance sales channels, including phone and mail orders, in order to avoid any unjustified distortions of competition and to create a level playing field for all businesses selling at a distance.

cover all distance sales channels, including phone and mail orders, in order to avoid any unjustified distortions of competition and to create a level playing field for all businesses selling at a distance ***and ensure a high and uniform level of consumer protection.***

Or. ro

Amendment 52

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) This Directive should guarantee a high level of consumer protection, to provide consumers with appropriate reassurance when they are wishing to enter into cross-border contracts. These rules should maintain or improve upon the level of protection that consumers enjoy at present under national or Union law.

Or. en

Amendment 53

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 5

Text proposed by the Commission

Amendment

(5) ***The*** Union rules applicable to the online and other distance sales of goods ***are still fragmented although*** rules on pre-contractual information requirements, the right of withdrawal and delivery conditions ***have already been fully harmonised.*** Other key contractual elements such as the conformity criteria, the remedies and modalities for their exercise for goods

(5) ***Certain*** Union rules applicable to the online and other distance sales of goods ***have already been harmonised, including*** rules on pre-contractual information requirements, the right of withdrawal and delivery conditions. Other key contractual elements such as the conformity criteria, the remedies and modalities for their exercise for goods which do not conform to

which do not conform to the contract are **subject to** minimum **harmonisation in** Directive 1999/44/EC of the European Parliament and of the Council³⁹. **Member States have been allowed to go beyond the Union standards and introduce rules that ensure even higher level of consumer protection. Having done so, they have acted on different elements and to different extents. Thus,** national provisions transposing the Union legislation on consumer contract law significantly diverge today on essential elements of a sales contract, such as the absence or existence of a hierarchy of remedies, the period of the legal guarantee, the period of the reversal of the burden of proof, or the notification of the defect to the seller.

³⁹ Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees OJ L 171, 7.7.1999, p.12.

the contract are **regulated at a minimum level by** Directive 1999/44/EC of the European Parliament and of the Council³⁹. **In practice therefore,** national provisions transposing the Union legislation on consumer contract law significantly diverge today on essential elements of a sales contract, such as the absence or existence of a hierarchy of remedies, the period of the legal guarantee, the period of the reversal of the burden of proof, or the notification of the defect to the seller.

³⁹ Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees OJ L 171, 7.7.1999, p.12.

Or. en

Amendment 54

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Existing disparities may adversely affect businesses and consumers. **Pursuant to Regulation (EC) No 593/2008 of the European Parliament and of the Council⁴⁰, businesses directing activities to consumers in other Member States need to take account of the mandatory consumer contract law rules of the consumer's country of habitual residence. As these rules differ among Member States, businesses may be faced with additional costs. Consequently many businesses may prefer to continue trading**

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Amendment

(6) Existing disparities **in relation to contract law in different Member States** may adversely affect businesses and consumers, **in addition to other key regulatory and non-regulatory issues such as tax laws, delivery network issues, payment systems and language barriers. However, the main difficulties encountered by consumers and the main source of disputes with sellers concern the non-conformity of goods with the contract. It is therefore necessary to improve consumer confidence in the**

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domestically or only export to one or two Member States. That choice of minimising exposure to costs and risks associated with cross-border e-commerce results in lost opportunities of commercial expansion and economies of scale. Small and medium enterprises are in particular affected.

internal market by providing for a high level of consumer protection and a modernised legal regime for the sale of consumer goods and associated guarantees. Those rules may provide an appropriate legal framework whilst still allowing Member States flexibility in implementation to improve protection for consumers.

⁴⁰ *Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) OJ L177, 4.7.2008, p.6.*

Or. en

Amendment 55

Daniel Buda

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Existing disparities may adversely affect businesses and consumers. Pursuant to Regulation (EC) No 593/2008 of the European Parliament and of the Council⁴⁰, businesses directing activities to consumers in other Member States need to take account of the mandatory consumer contract law rules of the consumer's country of habitual residence. As these rules differ among Member States, businesses *may be faced with* additional costs. Consequently many businesses *may* prefer to continue trading domestically or only export to one or two Member States. That choice of minimising exposure to costs and risks associated with cross-border e-commerce results in lost opportunities of commercial expansion and economies of scale. Small and medium enterprises are in particular affected.

Amendment

(6) Existing disparities may adversely affect businesses and consumers. Pursuant to Regulation (EC) No 593/2008 of the European Parliament and of the Council⁴⁰, businesses directing activities to consumers in other Member States need to take account of the mandatory consumer contract law rules of the consumer's country of habitual residence. As these rules differ among Member States, businesses *often face* additional costs. Consequently many businesses *prefer or could* prefer to continue trading domestically or only export to one or two Member States. That choice of minimising exposure to costs and risks associated with cross-border e-commerce results in lost opportunities of commercial expansion and economies of scale. Small and medium enterprises are in particular affected.

⁴⁰ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) OJ L177, 4.7.2008, p.6.

⁴⁰ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) OJ L177, 4.7.2008, p.6.

Or. ro

Amendment 56

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 7

Text proposed by the Commission

Amendment

(7) While consumers enjoy a high level of protection when they purchase online or otherwise at a distance from abroad as a result of the application of Regulation (EC) No 593/2008, fragmentation also impacts negatively on consumers' levels of confidence in e-commerce. While several factors contribute to this mistrust, uncertainty about key contractual rights ranks prominently among consumers' concerns. This uncertainty exists independently of whether or not consumers are protected by the mandatory consumer contract law provisions of their own Member State in the case where a seller directs his cross-border activities to them or whether or not consumers conclude cross-border contracts with a seller without the respective seller pursuing commercial activities in the consumer's Member State.

deleted

Or. en

Amendment 57

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) In order to remedy those problems, businesses and consumers should be able to rely on a set of *fully harmonised, targeted rules* for the *online and other distance* sales of goods. *Uniform rules are necessary in relation to several essential elements of consumer contract law which under the current minimum harmonisation approach led to disparities and trade barriers across the Union.*

Amendment

(8) In order to remedy those problems, businesses and consumers should be able to rely on a set of *common high standards* for the sales of goods *setting out Union-wide contractual rights* which *create an equal playing field for various actors*.

Or. en

Amendment 58
Daniel Buda

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In order to remedy those problems, businesses and consumers should be able to rely on a set of fully harmonised, targeted rules for the online and other distance sales of goods. Uniform rules are necessary in relation to several essential elements of consumer contract law which under the current minimum harmonisation approach led to disparities and trade barriers across the Union.

Amendment

(8) In order to remedy those problems, businesses and consumers should be able to rely on a set of fully harmonised, targeted rules for the *sale of goods, including* online *sales* and other *types of* distance sales of goods. Uniform rules are necessary in relation to several essential elements of consumer contract law which under the current minimum harmonisation approach led to disparities and trade barriers across the Union.

Or. ro

Amendment 59
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8 a) This Directive should establish a set of clear common rules for the

contractual rights of consumers when buying goods and help to provide a stable trading environment for sellers. This set of rules should recognise that consumers and sellers are not on an equal footing so that the legal framework must be just and fair to ensure a high level of consumer protection whilst still recognising the concerns of businesses, including small businesses.

Or. en

Amendment 60

Evelyne Gebhardt, Lucy Anderson, Evelyne Gebhardt

Proposal for a directive

Recital 8 b (new)

Text proposed by the Commission

Amendment

(8 b) The definition of consumer should cover natural persons who are acting outside their trade, business, craft or profession. However, in the case of dual-purpose contracts, where the contract is concluded for purposes partly within and partly outside natural person's trade, business, craft or profession and the trade or equivalent purpose is so limited as not to be predominant in the overall context of the contract, that person should also be considered to be a consumer. In order to determine whether a natural person is acting fully or partly for purposes which come within that person's trade, business, craft or profession, the way in which the person in question has acted towards the other contracting party should be taken into account.

Or. en

Amendment 61

Evelyne Gebhardt

Proposal for a directive

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Recital 9

Text proposed by the Commission

(9) *Fully harmonised consumer contract law rules will make it easier for traders to offer their products in other Member States. Businesses will have reduced costs as they will no longer need to take account of different consumer mandatory rules. They will enjoy more legal certainty when selling at a distance to other Member States through a stable contract law environment.*

Amendment

(9) *Minimum standards on a high level of consumer protection set out in this Directive should prevent obstructions of the four freedoms in the area of the sales of goods while leaving room for national deviations in specific matters and without endangering the harmony of national contractual law.*

Or. en

Amendment 62 Jean-Marie Cavada

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Fully harmonised consumer contract law rules will make it easier for traders to offer their products in other Member States. Businesses will have reduced costs as they will no longer need to take account of different consumer mandatory rules. They will enjoy more legal certainty when selling *at a distance* to other Member States through a stable contract law environment.

Amendment

(9) Fully harmonised consumer contract law rules will make it easier for traders to offer their products in other Member States. Businesses will have reduced costs as they will no longer need to take account of different consumer mandatory rules. They will enjoy more legal certainty when selling to other Member States through a stable contract law environment.

Or. fr

Amendment 63 Evelyne Gebhardt, Victor Negrescu

Proposal for a directive Recital 10

Text proposed by the Commission

(10) Increased competition among

Amendment

(10) Increased competition among

retailers is likely to result in wider choices at more competitive prices being offered to consumers. Consumers will benefit from a high level of consumer protection and welfare gains through targeted **fully harmonised** rules. This in turn would increase their trust in the cross-border commerce **at a distance and in particular online**. Consumers will more confidently buy **at a distance** cross-border knowing they would enjoy the same rights across the Union.

retailers is likely to result in wider choices at more competitive prices being offered to consumers. Consumers will benefit from a high level of consumer protection and welfare gains through targeted rules. This in turn would increase their trust in the cross-border commerce. Consumers will more confidently buy cross-border knowing they would enjoy the same rights across the Union.

Or. en

Amendment 64 **Jean-Marie Cavada**

Proposal for a directive **Recital 10**

Text proposed by the Commission

(10) Increased competition among retailers is likely to result in wider choices at more competitive prices being offered to consumers. Consumers will benefit from a high level of consumer protection and welfare gains through targeted fully harmonised rules. This in turn would increase their trust **in the** cross-border commerce at a distance and in particular online. Consumers will **more confidently buy at a distance cross-border knowing they would** enjoy the same rights across the Union.

Amendment

(10) Increased competition among retailers is likely to result in wider choices at more competitive prices being offered to consumers. Consumers will benefit from a high level of consumer protection and welfare gains through targeted fully harmonised rules. This in turn would increase their trust, **especially in** cross-border commerce at a distance and, in particular, online. Consumers will **be more confident about making cross-border purchases in the knowledge that they** enjoy the same rights across the Union.

Or. fr

Amendment 65 **Constance Le Grip**

Proposal for a directive **Recital 11**

Text proposed by the Commission

Amendment

(11) This Directive covers rules applicable to the *online and other distance* sales of goods only in relation to key contract elements needed to overcome *contract-law related* barriers in the *Digital Single Market*. For this purpose, rules on conformity requirements, remedies available to consumers for lack of conformity of the goods with the contract and modalities for their exercise should be fully harmonised and the level of consumer protection as compared to Directive 1999/44/EC, should be increased.

(11) This Directive covers rules applicable to the sales of goods only in relation to key contract elements needed to overcome *contract-law-related* barriers in the *single market*. For this purpose, rules on conformity requirements, remedies available to consumers for lack of conformity of the goods with the contract and modalities for their exercise should be fully harmonised and the level of consumer protection as compared to Directive 1999/44/EC, should be increased.

Or. fr

Amendment 66
Jean-Marie Cavada

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) This Directive covers rules applicable to the online and other distance sales of goods only in relation to key contract elements needed to overcome contract-law related barriers in the *Digital Single Market*. For this purpose, rules on conformity requirements, remedies available to consumers for lack of conformity of the goods with the contract and modalities for their exercise should be fully harmonised and the level of consumer protection as compared to Directive 1999/44/EC, should be increased.

Amendment

(11) This Directive covers rules applicable to the online and other distance sales of goods only in relation to key contract elements needed to overcome contract-law related barriers in the *single market*. For this purpose, rules on conformity requirements, remedies available to consumers for lack of conformity of the goods with the contract and modalities for their exercise should be fully harmonised and the level of consumer protection as compared to Directive 1999/44/EC, should be increased.

Or. fr

Amendment 67
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) This Directive covers rules applicable to the ***online and other distance*** sales of goods only in relation to key contract elements needed to overcome contract-law related barriers in the Digital Single Market. For this purpose, rules on conformity requirements, remedies available to consumers for lack of conformity of the goods with the contract and modalities for their exercise should be ***fully harmonised*** and the level of consumer protection as compared to Directive 1999/44/EC, should be increased.

Amendment

(11) This Directive covers rules applicable to the sales of goods only in relation to key contract elements needed to overcome contract-law related barriers in the Digital Single Market. For this purpose, rules on conformity requirements, remedies available to consumers for lack of conformity of the goods with the contract and modalities for their exercise should be ***harmonised at a minimum level*** and the level of consumer protection as compared to Directive 1999/44/EC, should be increased.

Or. en

Amendment 68
Constance Le Grip

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Although a lack of conformity can be present when the sale is concluded, sometimes it only becomes apparent at a later stage. Some Member States have legislation in place to protect consumers in such situations, for example by means of guarantees that are binding upon sellers. Although, where they exist, such mechanisms are seldom used in practice, this Directive should not affect the possibility for Member States to introduce or maintain any rules imposing liability on sellers in order to protect consumers if there are hidden defects in the goods they purchase.

Or. fr

Amendment 69
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11 a) This Directive should also apply to dual purpose contracts, where the contract is concluded for purposes partly within and partly outside the person's trade and the trade purpose is marginal within the overall context of the contract, so that that person should also be considered a consumer.

Or. en

Justification

Recital 17 of CRD in order to achieve consistency.

Amendment 70
Daniel Buda

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) This Directive should not apply to goods *like DVDs and CDs* incorporating digital content *in such a way that the goods function only as a carrier of the digital content. However, this Directive should apply to digital content integrated in goods such as household appliances or toys where the digital content is embedded in such a way that its functions are subordinate to the main functionalities of the goods and it operates as an integral part of the goods.*

(13) This Directive should not apply to goods incorporating digital content *such as household appliances, toys, DVDs and CDs where that digital content is embedded in such a way that it operates as an integral part of the goods and cannot easily be de-installed by the consumer, unless the seller proves that the lack of conformity lies in the non-digital part of the good.*

Or. ro

Amendment 71
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) This Directive should not apply to ***goods like DVDs and CDs incorporating digital content in such a way that the goods function only as a carrier of the digital content. However, this Directive should apply to digital content*** integrated in goods such as household appliances ***or toys*** where the digital content is embedded in such a way that its functions are subordinate to the main functionalities of the goods and it operates as an integral part of the goods.

Amendment

(13) This Directive should not apply to digital content ***or digital services*** integrated in goods such as household appliances, ***toys or storage devices*** where the digital content is embedded in such a way that its functions are subordinate to the main functionalities of the goods and it operates as an integral part ***of the goods and cannot be uninstalled easily by the consumer, unless the seller proves that the lack of conformity lies in the hardware*** of the goods.

Or. en

Amendment 72

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) This Directive should not affect contract laws of Member States in areas not regulated by this Directive. ***Member States should also be free to provide more detailed conditions in relation to aspects regulated in this Directive to the extent those are not fully harmonised by this Directive: this concerns limitation periods for exercising the consumers' rights, commercial guarantees, and the right of redress of the seller.***

Amendment

(14) This Directive should not affect contract laws of Member States in areas not regulated by this Directive, ***and its implementation should under no circumstances constitute grounds for reducing the level of protection afforded to consumers in fields that fall within the scope of Union law.***

Or. en

Amendment 73

Evelyne Gebhardt

Proposal for a directive

Recital 14 a (new)

(14 a) This Directive should not affect national laws governing the conditions under which a contract for the sale of goods is considered to be linked with or ancillary to another contract which the consumer has concluded with the same seller or another seller, and the effect those national laws have on either contract or on the remedies to be exercised under either contract. Member States should also be free to determine the nature of such contracts, which could be, inter alia, sales, services, rental or sui generis contracts.

Or. en

Amendment 74

Evelyne Gebhardt, Lucy Anderson, Lucy Anderson

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Where referring to the same concepts, the rules of this Directive should be applied and interpreted in a manner consistent with the rules of Directive 1999/44/EC and Directive 2011/83/EU of the European Parliament and of the Council⁴¹ as interpreted by the case law of the Court of Justice of the European Union.

⁴¹ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council OJ L 304, 22.11.2011, p.64.

Amendment

(15) Where referring to the same concepts, the rules of this Directive should be applied and interpreted in a manner consistent with the rules of Directive 1999/44/EC and, ***where relevant and appropriate***, Directive 2011/83/EU of the European Parliament and of the Council⁴¹ as interpreted by the case law of the Court of Justice of the European Union.

⁴¹ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council OJ L 304, 22.11.2011, p.64.

Amendment 75

Daniel Buda

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) For the purpose of legal clarity the Directive includes a definition of a sales contract. This definition maintains that contracts *where* goods are yet to be produced or manufactured, including under consumer's specifications, are also included in the scope of the Directive.

Amendment

(16) For the purpose of *ensuring* legal clarity the Directive includes a definition of a sales contract. This definition maintains that contracts *for the sale of certain* goods *that* are yet to be produced or manufactured, including under consumer's specifications, are also included in the scope of the Directive.

Or. ro

Amendment 76

Daniel Buda

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In order to bring clarity and certainty for sellers and consumers the Directive *should define* the notion of a contract. *This definition follows* the common traditions of all Member States *by requiring* an agreement intended to give rise to obligations or other legal effects for a contract to exist.

Amendment

(17) In order to bring clarity and *legal* certainty for sellers and consumers the Directive *establishes* the notion of a contract *based on* the common traditions of all Member States, *which require there to be* an agreement intended to give rise to obligations or other legal effects *in order* for a contract to exist.

Or. ro

Amendment 77

Jean-Marie Cavada

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) In order to balance the requirement of legal certainty with an appropriate flexibility of the legal rules, any reference to what can be expected of or by a person in this Directive should be understood as a reference to what can reasonably be expected. The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties involved. In particular, the reasonable time for completing a repair or replacement should be objectively ascertained, having regard to the nature of the goods and the lack of conformity.

Amendment

(18) In order to balance the requirement of legal certainty with an appropriate flexibility of the legal rules, any reference to what can be expected of or by a person in this Directive should be understood as a reference to what can reasonably be expected. The standard of reasonableness should be objectively ascertained, having regard to the nature, ***subject*** and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties involved. In particular, the reasonable time for completing a repair or replacement should be objectively ascertained, having regard to the nature of the goods and the lack of conformity, ***if no time limit for repair or replacement is provided for in the contract.***

Or. fr

Amendment 78

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) In order to balance the requirement of legal certainty with an appropriate flexibility of ***the*** legal rules, any reference to what can be expected of or by a person in this Directive should be understood as a reference to what can reasonably be expected. The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties ***involved***. In particular, the reasonable time for completing a repair or replacement should be objectively ascertained, having regard to the nature of the goods and the lack of conformity.

Amendment

(18) In order to balance the requirement of legal certainty with an appropriate flexibility of ***interpretation of*** legal rules, any reference to what can be expected of or by a person in this Directive should be understood as a reference to what can reasonably be expected. The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties ***to a contract***. In particular, the reasonable time for completing a repair or replacement should be objectively ascertained, having regard to the nature of the goods and the lack of conformity.

Amendment 79**Daniel Buda****Proposal for a directive****Recital 18***Text proposed by the Commission*

(18) In order to balance the requirement of legal certainty with an appropriate flexibility of the legal rules, any reference to what can be expected of or by **a person** in this Directive should be understood as a reference to what can reasonably be expected. The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties involved. In particular, the reasonable time for completing a repair or replacement should be objectively ascertained, having regard to the nature of the goods and the lack of conformity.

Amendment

(18) In order to balance the requirement of legal certainty with an appropriate flexibility of the legal rules, any reference to what can be expected of or by **the contracting parties** in this Directive should be understood as a reference to what can reasonably be expected. The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the contract, to the circumstances of the case and to the usages and practices of the parties involved. In particular, the reasonable time for completing a repair or replacement should be objectively ascertained, having regard to the nature of the goods and the lack of conformity.

Or. ro

Amendment 80**Evelyne Gebhardt****Proposal for a directive****Recital 19***Text proposed by the Commission*

(19) In order to provide clarity as to what a consumer can expect from the goods and what the seller would be liable for in case of failure to deliver what is expected, it is essential to **fully harmonise rules for determining the conformity with the contract. Applying** a combination of subjective and objective criteria **should** safeguard legitimate interests of **both**

Amendment

(19) In order to provide clarity as to what a consumer can expect from the goods and what the seller would be liable for in case of failure to deliver what is expected, it is essential to **apply** a combination of subjective and objective criteria **to** safeguard legitimate interests of **consumer and seller** to a sales contract. Conformity with the contract should be

parties to a sales contract. Conformity with the contract should be assessed by taking into account not only requirements which have actually been set in the contract - including in pre-contractual information which forms an integral part of the contract - but also certain objective requirements which constitute the standards normally expected for goods, in particular in terms of fitness for the purpose, packaging, installation instructions and normal qualities and performance capabilities.

assessed by taking into account not only requirements which have actually been set in the contract - including in pre-contractual information which forms an integral part of the contract - but also certain objective requirements which constitute the standards normally expected for goods, in particular in terms of fitness for the purpose, packaging, installation instructions and normal qualities and performance capabilities.

Or. en

Amendment 81

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) A large number of consumer goods are intended to be installed before they can be *usefully used* by the consumer. Therefore any lack of conformity resulting from an incorrect installation of the goods should be regarded as a lack of conformity with the contract where the installation was performed by the seller or under the seller's control, as well as where the goods were installed by the consumer but the incorrect installation is due to incorrect installation instructions.

Amendment

(20) A large number of consumer goods are intended to be installed before they can be *used in practice* by the consumer. Therefore any lack of conformity resulting from an incorrect installation of the goods should be regarded as a lack of conformity with the contract where the installation was performed by the seller or under the seller's control, as well as where the goods were installed by the consumer but the incorrect installation is due to incorrect installation instructions.

Or. en

Amendment 82

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) Conformity should cover material
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Amendment

(21) Conformity should cover material

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defects as well as legal defects. Third party rights and other legal defects ***might effectively*** bar the consumer from enjoying the goods in accordance with the contract ***when the right's holder rightfully compels the consumer to stop infringing those rights***. Therefore the seller should ensure that the goods are free from any right of a third party, which precludes the consumer from enjoying the goods in accordance with the contract.

defects as well as legal defects. Third party rights and other legal defects ***should not*** bar the consumer from enjoying the goods in accordance with the contract. Therefore the seller should ensure that the goods are free from any right of a third party, which precludes the consumer from enjoying the goods in accordance with the contract.

Or. en

Amendment 83

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) ***While freedom of contract with regard to the criteria of conformity with the contract should be ensured, in*** order to avoid circumvention of the liability for lack of conformity and ensure a high level of consumer protection, any derogation from the mandatory rules on criteria of conformity and incorrect installation, which is detrimental to the interests of the consumer, ***shall be valid only if the consumer has been expressly informed and has expressly consented to it when concluding the contract.***

Amendment

(22) In order to avoid circumvention of the liability for lack of conformity and ensure a high level of consumer protection, any derogation from the mandatory rules on criteria of conformity and incorrect installation, which is detrimental to the interests of the consumer, ***should not*** be valid.

Or. en

Amendment 84

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Ensuring longer durability of
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Amendment

(23) Ensuring longer durability of

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consumer goods is important for achieving more sustainable consumption patterns and a circular economy. Similarly, keeping non-compliant products out of the Union market by strengthening market surveillance and providing the right incentives to economic operators is essential to increase trust in the single market. For *these* purposes, product specific Union legislation is the most appropriate approach to introduce durability and other product related requirements in relation to specific types or groups of products, using for this purpose adapted criteria. This Directive should therefore be complementary to the objectives followed in *this* Union *sector specific* legislation. *In so far as specific* durability information *is* indicated in any pre-contractual statement which forms part of the sales contract, *the consumer* should be *able to rely on them as a part of the criteria for conformity*.

consumer goods is important for achieving more sustainable consumption patterns and a circular economy. Similarly, keeping non-compliant products out of the Union market by strengthening market surveillance and providing the right incentives to economic operators is essential to increase trust in the single market. For *those* purposes, product specific Union legislation, *such as Council Directive 85/374/EEC^{1a}*, is the most appropriate approach to introduce durability and other product related requirements in relation to specific types or groups of products, using for this purpose adapted criteria. This Directive should therefore be complementary to the objectives followed in Union *product liability* legislation. Specific durability information *should be* indicated in any pre-contractual statement which forms part of the sales contract, *which should be part of the criteria for conformity. Furthermore, sellers should inform consumers about the availability of spare parts which are necessary for the use of the product.*

^{1a} *Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).*

Or. en

Amendment 85 **Daniel Buda**

Proposal for a directive **Recital 23**

Text proposed by the Commission

(23) Ensuring longer durability of consumer goods is important for achieving more sustainable consumption patterns and a circular economy. Similarly, keeping

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Amendment

(23) Ensuring longer durability of consumer goods is important for achieving more sustainable consumption patterns and a circular economy, *as well as to ensure a*

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non-compliant products out of the Union market by strengthening market surveillance and providing the right incentives to economic operators is essential to increase trust in the single market. For these purposes, product specific Union legislation is the most appropriate approach to introduce durability and other product related requirements in relation to specific types or groups of products, using for this purpose adapted criteria. This Directive should therefore be complementary to the objectives followed in this Union sector specific legislation. In so far as specific durability information is indicated in any pre-contractual statement which forms part of the sales contract, the consumer should be able to rely on them as a part of the criteria for conformity.

high level of consumer protection.

Similarly, keeping non-compliant products out of the Union market by strengthening market surveillance and providing the right incentives to economic operators is essential to increase trust in the single market. For these purposes, product specific Union legislation is the most appropriate approach to introduce durability and other product related requirements in relation to specific types or groups of products, using for this purpose adapted criteria. This Directive should therefore be complementary to the objectives followed in this Union sector specific legislation. In so far as specific durability information is indicated in any pre-contractual statement which forms part of the sales contract, the consumer should be able to rely on them as a part of the criteria for conformity.

Or. ro

Amendment 86

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23 a) Considering that the seller is liable towards the consumer for any lack of conformity of the goods resulting from an act or omission of the seller or a third party, it is justified that the seller should be able to pursue remedies against the responsible person in earlier links of the chain of transactions.

Or. en

Amendment 87

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

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Recital 23 b (new)

Text proposed by the Commission

Amendment

(23 b) *The European Commission considered in its Green Paper on Guarantees for Consumer Goods that in modern societies the confidence of consumers is bound up with their faith in the manufacturers. Directive 1999/44/EC envisages more far-reaching provisions on producers' liability, in particular by providing for producers' direct liability for non-conformity for which they are responsible.*

Or. en

Amendment 88

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 23 c (new)

Text proposed by the Commission

Amendment

(23 c) *The liability of producers in these circumstances should be construed as deriving from a clause enforceable against the producer as a contractual guarantee, a breach of which would trigger a claim for damages for non-conformity. For the purposes of this approach, this Directive should include an appropriate definition of 'producer'.*

Or. en

Amendment 89

Evelyne Gebhardt, Lucy Anderson

Proposal for a directive

Recital 24

Text proposed by the Commission

Amendment

(24) Enhancing legal certainty for both

(24) Enhancing legal certainty for both

consumers and sellers requires a clear indication of the time when the conformity of the goods to the contracts should be assessed. In order to ensure coherence between the present Directive and Directive 2011/83/EU it is appropriate to indicate the time of the passing of risk as the time for assessing the conformity of the goods. However, in cases where the goods need to be installed, that relevant time should be adapted.

consumers and sellers requires a clear indication of the time when the conformity of the goods to the contracts should be assessed, ***subject to national rules on the commencement of prescription periods in exceptional cases***. In order to ensure coherence between the present Directive and Directive 2011/83/EU it is appropriate ***in general*** to indicate the time of the passing of risk as the time for assessing the conformity of the goods. However, in cases where the goods need to be installed, that relevant time should be adapted.

Or. en

Amendment 90

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) In order to allow businesses to rely on a single set of rules across the Union, it is ***necessary to fully*** harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first two years, in order to benefit from the presumption of lack of conformity, the consumer should only establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract ***and in order to eliminate one of the major obstacles inhibiting the Digital Single Market, a fully harmonised order in which remedies can be exercised should be provided for. In particular, the consumer should enjoy a choice between repair or replacement as a first remedy which should help in maintaining the contractual relation and mutual trust. Moreover, enabling consumers to require***

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Amendment

(26) In order to allow businesses to rely on a single set of rules across the Union ***and to provide a high level of consumer protection***, it is ***justified to*** harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first two years, in ***addition to a short-term right to reject goods, in*** order to benefit from the presumption of lack of conformity, the consumer should only establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In ***addition, in*** order to increase legal certainty in relation to ***the*** available remedies for lack of conformity with the contract, ***the principle of free choice of remedies should be harmonised.***

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repair should encourage a sustainable consumption and could contribute to a greater durability of products.

Or. en

Amendment 91

Angel Dzhambazki, Kosma Złotowski

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first two years, in order to benefit from the presumption of lack of conformity, the consumer should only establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Digital Single Market, ***a fully harmonised order in which remedies can be exercised should be provided for. In particular, the consumer should enjoy a choice between repair or replacement as a first remedy which should help in maintaining the contractual relation and mutual trust. Moreover, enabling consumers to require repair should encourage a sustainable consumption and could contribute to a greater durability of products.***

Amendment

(26) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first two years, in order to benefit from the presumption of lack of conformity ***and provided that the lack of conformity became apparent within six months of delivery of the goods***, the consumer should only establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Digital Single Market.

Or. en

Justification

Allowing the consumer to fully choose amongst all types of remedies, without differentiation, would result in a disproportionate economic burden on industry, having to refund or supply

more devices, instead of repairs and thereby disrupt product-cycles linked to online trading specifically, where said cycles are significantly shorter.

Amendment 92
Emil Radev

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first **two years, in order to** benefit from the presumption of lack of conformity, **the consumer should only** establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Digital Single Market, a fully harmonised order in which remedies can be exercised should be provided for. In particular, the consumer should enjoy a choice between repair or replacement as a first remedy which should help in maintaining the contractual relation and mutual trust. Moreover, enabling consumers to require repair should encourage a sustainable consumption and could contribute to a greater durability of products.

Amendment

(26) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first **six months after delivery of the goods, the consumer may** benefit from the presumption of lack of conformity, **having only to** establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Digital Single Market, a fully harmonised order in which remedies can be exercised should be provided for. In particular, the consumer should enjoy a choice between repair or replacement as a first remedy which should help in maintaining the contractual relation and mutual trust. Moreover, enabling consumers to require repair should encourage a sustainable consumption and could contribute to a greater durability of products.

Or. bg

Amendment 93
Jean-Marie Cavada

Proposal for a directive

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Recital 26

Text proposed by the Commission

(26) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first **two years**, in order to benefit from the presumption of lack of conformity, the consumer should only establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Digital Single Market, a fully harmonised order in which remedies can be exercised should be provided for. In particular, the consumer should enjoy a choice between repair or replacement as a first remedy which should help in maintaining the contractual relation and mutual trust. Moreover, enabling consumers to require repair should encourage a sustainable consumption and could contribute to a greater durability of products.

Amendment

(26) In order to allow businesses to rely on a single set of rules across the Union, it is necessary to fully harmonise the period of time during which the burden of proof for the lack of conformity is reversed in favour of the consumer. Within the first **six months**, in order to benefit from the presumption of lack of conformity, the consumer should only establish that the good is not conforming, without needing to demonstrate that the lack of conformity actually existed at the relevant time for establishing conformity. In order to increase legal certainty in relation to available remedies for lack of conformity with the contract and in order to eliminate one of the major obstacles inhibiting the Digital Single Market, a fully harmonised order in which remedies can be exercised should be provided for. In particular, the consumer should enjoy a choice between repair or replacement as a first remedy which should help in maintaining the contractual relation and mutual trust. Moreover, enabling consumers to require repair should encourage a sustainable consumption and could contribute to a greater durability of products.

Or. fr

Amendment 94

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Recital 26 a (new)

Text proposed by the Commission

Amendment

(26 a) This Directive should grant consumers throughout the Union a new and unrivalled freedom in choosing remedies. A consumer should be able to require the seller to bring the goods into conformity with the contract either

through repair of the defects or through replacement of the defective goods with conforming ones. But more importantly, the consumer should be able to turn down any offer by the supplier to have the goods brought into conformity and instead to require price reduction or termination of the contract. The consumer should be able to decide whether or not to give the supplier a chance to bring the goods into conformity, and in which way the supplier should cure the defects, according to his own preference. Repair or replacement might be preferable if a consumer thinks the value of the defective goods is substantial, for example because the goods are unique or the market prices of the goods have gone up.

Or. en

Amendment 95
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) *The consumer's choice between repair **and** replacement should only be limited where the option chosen would be disproportionate compared to the other option available, impossible or unlawful. For instance, it might be disproportionate to request the replacement of goods because of a minor scratch where this replacement would create significant costs while, at the same time, the scratch could easily be repaired.*

Amendment

(27) *If, in the case of non-conformity of the goods with the contract, the consumer **has chosen either** repair **or** replacement, **his choice** should only be limited where the option chosen would be disproportionate compared to the other option available, impossible or unlawful. For instance, it might be disproportionate to request the replacement of goods because of a minor scratch where this replacement would create significant costs while, at the same time, the scratch could easily be repaired.*

Or. en

Amendment 96
Angel Dzhambazki, Kosma Zlotowski
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Proposal for a directive
Recital 27

Text proposed by the Commission

(27) The consumer's choice between repair and replacement should only be limited where the option chosen would be disproportionate compared to the other option available, impossible or unlawful. For instance, it might be disproportionate to request the replacement of goods because of a minor scratch where this replacement would create significant costs while, at the same time, the scratch could easily be repaired.

Amendment

(27) The consumer's choice between repair and replacement should only be limited where the option chosen would be ***technically difficult or economically*** disproportionate compared to the other option available, impossible or unlawful. For instance, it might be disproportionate to request the replacement of goods because of a minor scratch where this replacement would create significant costs while, at the same time, the scratch could easily be repaired.

Or. en

Justification

The amendment reintroduces the criteria for the hierarchy of remedies, in order to further clarify the term of "disproportionality".

Amendment 97
Daniel Buda

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) The consumer's choice between repair and replacement should only be limited where the ***option*** chosen would be disproportionate compared to the ***other option*** available, impossible or unlawful. For instance, it might be disproportionate to request the replacement of goods because of a minor scratch where this replacement would create significant costs while, at the same time, the scratch could easily be repaired.

Amendment

(27) The consumer's choice between repair and replacement should only be limited where the ***remedy*** chosen would be disproportionate compared to the ***alternative remedy*** available, impossible or unlawful. For instance, it might be disproportionate to request the replacement of goods because of a minor scratch where this replacement would create significant costs while, at the same time, the scratch could easily be repaired.

Or. ro

Amendment 98
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) *Where the seller has not remedied the lack of conformity through repair or replacement without significant inconvenience for the consumer and within a reasonable time, the consumer should be entitled to a price reduction or to terminate the contract. In particular any repair or replacement needs to be successfully accomplished within **this** reasonable period. What is a reasonable time should be objectively ascertained considering the nature of the goods and the lack of conformity. If upon the laps of the reasonable period, the seller has failed to successfully remedy the lack of conformity, the consumer should not be obliged to accept any further attempts by the seller in relation to the same lack of conformity.*

Amendment

(28) *If, in the case of non-conformity of the goods with the contract, the consumer has opted for a repair or replacement, any repair or replacement needs to be successfully accomplished within **a** reasonable period. What is a reasonable time should be objectively ascertained considering the nature of the goods and the lack of conformity. If upon the laps of the reasonable period, the seller has failed to successfully remedy the lack of conformity, the consumer should not be obliged to accept any further attempts by the seller in relation to the same lack of conformity.*

Or. en

Amendment 99
Jean-Marie Cavada

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) Where the seller has not remedied the lack of conformity through repair or replacement without significant inconvenience for the consumer and within a reasonable time, the consumer should be entitled to a price reduction or to terminate the contract. In particular any repair or replacement needs to be successfully accomplished within this reasonable period. What is a reasonable time should be objectively ascertained considering the

Amendment

(28) Where the seller has not remedied the lack of conformity through repair or replacement without significant inconvenience for the consumer and within a reasonable time **or within the time limit for replacement or repair laid down in the contract**, the consumer should be entitled to a price reduction or to terminate the contract. In particular any repair or replacement needs to be successfully accomplished within this reasonable

nature of the goods and the lack of conformity. If ***upon the laps of*** the reasonable period, the seller has failed to successfully remedy the lack of conformity, the consumer should not be obliged to accept any further attempts by the seller in relation to the same lack of conformity.

period. What is a reasonable time should be objectively ascertained considering the nature of the goods and the lack of conformity. If, ***once*** the reasonable period ***has lapsed***, the seller has failed to successfully remedy the lack of conformity, the consumer should not be obliged to accept any further attempts by the seller in relation to the same lack of conformity.

Or. fr

Amendment 100
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28 a) If, in the case of non-conformity of the goods with the contract, the consumer has chosen repair or replacement, he should still be entitled to a price reduction or termination of the contract if the seller fails to complete a repair or replacement within a reasonable time, if a repair or replacement would cause significant inconvenience to the consumer, if a repair or replacement is impossible or unlawful or, if the seller has declared, or it is equally clear from the circumstances, that the seller will not bring the goods into conformity with the contract within a reasonable time.

Or. en

Amendment 101
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Recital 29

Text proposed by the Commission

Amendment

(29) Considering that the right to terminate the contract due to the lack of conformity is an important remedy applicable where repair or replacement are not feasible or have failed, the consumer should also enjoy the right to terminate the contract in cases where the lack of conformity is minor. This would provide a strong incentive to remedy all cases of a lack of conformity at an early stage. In order to make the right to terminate effective for consumers, in situations where the consumer acquires multiple goods, some being an accessory to the main item which the consumer would not have acquired without the main item, and the lack of conformity impacts that main item, the consumer should have the right to terminate the contract also in relation to the accessory elements, even if the latter are in conformity with the contract.

(29) Considering that the right to terminate the contract due to the lack of conformity is an important remedy applicable where repair or replacement are not feasible or have failed, the consumer should also enjoy the right to terminate the contract in cases where the lack of conformity is minor. This would provide a strong incentive to remedy all cases of a lack of conformity at an early stage. In order to make the right to terminate effective for consumers, in situations where the consumer acquires multiple goods, some being an accessory to *or acquired in conjunction with* the main item which the consumer would not have acquired without the main item, and the lack of conformity impacts that main item, the consumer should have the right to terminate the contract also in relation to the accessory *or additional* elements, even if the latter are in conformity with the contract.

Or. en

Amendment 102
Daniel Buda

Proposal for a directive
Recital 29

Text proposed by the Commission

(29) Considering that the right to terminate the contract due to the lack of conformity is an important remedy applicable where repair or replacement are not feasible or have failed, the consumer should also enjoy the right to terminate the contract in cases where the lack of conformity is minor. This would provide a strong incentive to remedy all cases of a lack of conformity at an early stage. In order to make the right to terminate effective for consumers, in situations where the consumer acquires multiple goods, some being an accessory to the main item which the consumer would not

Amendment

(29) Considering that the right to terminate the contract due to the lack of conformity is an important remedy applicable where repair or replacement are not feasible or have failed, the consumer should also enjoy the right to terminate the contract in cases where the lack of conformity is minor. This would provide a strong incentive to remedy all cases of a lack of conformity at an early stage. In order to make the right to terminate effective for consumers, in situations where the consumer acquires multiple goods, some being an accessory to the main item which the consumer would not

have acquired without the main item, and the lack of conformity impacts that main item, the consumer *should* have the right to terminate the contract also in relation to the accessory elements, even if the latter are in conformity with the contract.

have acquired without the main item, and the lack of conformity impacts that main item, the consumer *must* have the right to terminate the contract also in relation to the accessory elements, even if the latter are in conformity with the contract.

Or. ro

Amendment 103

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 31

Text proposed by the Commission

(31) In order to ensure the effectiveness of the right to terminate for consumers while avoiding the consumer's unjustified enrichment, the consumer's obligation to pay for the decrease of the value of the goods should be limited to those situations where the decrease exceeds normal use. In any case the consumer should not be obliged to pay more than the price agreed for the goods. In situations where the return of the goods is impossible due to their destruction or loss, the consumer should pay the monetary value of the goods which were destroyed. However, the consumer should not be obliged to pay the monetary value where the destruction or loss is caused by the lack of conformity of the goods with the contract.

Amendment

(31) In order to ensure the effectiveness of the right to terminate for consumers while avoiding the consumer's unjustified enrichment, the consumer's obligation to pay for the decrease of the value of the goods should be limited to those situations where the decrease exceeds normal use, ***and where it is possible to take a proportionate approach***. In any case the consumer should not be obliged to pay more than the price agreed for the goods. In situations where the return of the goods is impossible due to their destruction or loss, the consumer should pay the monetary value of the goods which were destroyed. However, the consumer should not be obliged to pay the monetary value where the destruction or loss is caused by the lack of conformity of the goods with the contract.

Or. en

Amendment 104

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Recital 32

Text proposed by the Commission

Amendment

(32) In order to increase legal certainty for sellers and overall consumer confidence in cross-border purchases it is necessary to harmonise the period during which the seller is held liable for any lack of conformity which exists at the time when the consumer acquires the physical possession of goods. ***Considering that the large majority of Member States have foreseen a two-year period when implementing Directive 1999/44 and in practice this is considered by market participants as a reasonable period, this period should be maintained.***

(32) In order to increase legal certainty for sellers and overall consumer confidence in cross-border purchases it is necessary to harmonise ***at a minimum level*** the period during which the seller is held liable for any lack of conformity which exists at the time when the consumer acquires the physical possession of goods.

Or. en

Amendment 105

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) ***In order to ensure higher awareness of consumers and easier enforcement of the Union rules on consumer's rights in relation to non-conforming goods, this Directive should align the period of time during which the burden of proof is reversed in favour of the consumer with the period during which the seller is held liable for any lack of conformity.***

deleted

Or. en

Amendment 106

Evelyne Gebhardt, Heidi Hautala, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 33 a (new)

Text proposed by the Commission

Amendment

(33 a) The development of a circular economy requires such matters as reuse, recycling and repair to be facilitated in the development of products. A simple and highly resource-efficient approach would be to extend the initial lifetime or first use of a product. The use of lifespan guarantees under the Ecodesign requirements for a product would capture this approach.

Or. en

Amendment 107

Evelyn Gebhardt, Heidi Hautala, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 33 b (new)

Text proposed by the Commission

Amendment

(33 b) The producer of an energy-related product should be obliged to guarantee to the consumer a minimum lifespan to be expected of the energy-related product. This lifespan indication should reflect the expectations of reasonable and typical consumers. If the producer does not fulfil these obligations, the consumer should be entitled to have the goods brought into conformity with the contract by the producer through repair or replacement.

Or. en

Amendment 108

Victor Negrescu, Heidi Hautala, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 33 c (new)

Text proposed by the Commission

Amendment

(33 c) Commercial guarantees for lifespan should constitute an additional

responsibility for the lifespan functioning of energy-related products of the producer and should under no circumstances limit or exclude any remedies of the seller towards the consumer.

Or. en

Amendment 109

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 35

Text proposed by the Commission

Amendment

(35) Considering that the seller is liable towards the consumer for any lack of conformity of the goods resulting from an act or omission of the seller or a third party it is justified that the seller should be able to pursue remedies against the responsible person earlier in the chain of transactions. However, this Directive should not affect the principle of freedom of contract between the seller and other parties in the chain of transactions. The details for exercising that right, in particular against whom and how such remedies are to be pursued, should be provided by the Member States.

deleted

Or. en

Amendment 110

Heidi Hautala, Evelyne Gebhardt

Proposal for a directive

Recital 36

Text proposed by the Commission

Amendment

(36) Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court

(36) Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court

or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings.

or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings. ***It is also important to further develop alternative, out-of-court dispute resolution procedures such as conciliation and mediation as well as the assistance provided by an ombudsman or complaint boards, which are efficient and well-trying means to solve consumer disputes.***

Or. en

Amendment 111

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings.

Amendment

(36) Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings. ***It is also important that Member States continue to be mindful of the need for consumers to be informed about, enabled and facilitated to enforce their rights in practice, including through claiming remedies collectively where appropriate.***

Or. en

Amendment 112

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 36 a (new)

Text proposed by the Commission

Amendment

(36 a) In the light of the significance of

the issues and rights addressed in this Directive for the internal market and for consumers and citizens of the Union, this Directive should be subject to close scrutiny and review, including meaningful and detailed consultation and involvement with Member States and consumer, legal and business organisations at Union level.

Or. en

Amendment 113

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) Since the objectives of this Directive, namely to *contribute to* the functioning of the internal market *by tackling in a consistent manner contract law-related obstacles for the online and other distance sales of goods* cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment

(42) Since the objectives of this Directive, namely to *improve the conditions for the establishment and* the functioning of the internal market, *to ensure a high level of consumer protection and confidence and to help provide a level playing field for traders* cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Or. en

Amendment 114

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Recital 43

Text proposed by the Commission

Amendment

(43) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and specifically Article 16, 38 and 47 thereof.

deleted

Or. en

Amendment 115

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 1 – title

Text proposed by the Commission

Amendment

Subject matter **and scope**

Subject matter, **scope and objectives**

Or. en

Amendment 116

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. **This Directive lays down** certain **requirements** concerning **distance** sales contracts concluded between the seller and the consumer, in particular rules on conformity of goods, remedies in case of non-conformity and the modalities for the exercise of these remedies.

1. **The purpose of** this Directive **is the approximation of the laws, regulations and administrative provisions of the Member States on** certain **aspects** concerning sales contracts concluded between the seller and the consumer, in particular rules on conformity of goods, remedies in case of non-conformity and the modalities for the exercise of these remedies.

Or. en

Justification

Alignment with Art. 1 Consumer Sales Directive and Consumer Rights Directive.

Amendment 117

Daniel Buda

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive lays down certain requirements concerning distance sales contracts concluded between the seller and the consumer, in particular rules on conformity of goods, remedies in case of non-conformity and the modalities for the exercise of these remedies.

Amendment

1. This Directive lays down certain requirements concerning distance sales contracts concluded between the seller and the consumer, in particular rules on conformity of goods ***with the terms of the contract***, remedies in case of non-conformity and the modalities for the exercise of these remedies.

Or. ro

Amendment 118

Constance Le Grip

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive lays down certain requirements concerning ***distance*** sales contracts concluded between the seller and the consumer, in particular rules on conformity of goods, remedies in case of non-conformity and the modalities for the exercise of these remedies.

Amendment

1. This Directive lays down certain requirements concerning sales contracts concluded between the seller and the consumer, in particular rules on conformity of goods, remedies in case of non-conformity and the modalities for the exercise of these remedies.

Or. fr

Amendment 119

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. This Directive aims to improve the conditions for the establishment and the functioning of the internal market, to ensure a high level of consumer protection and confidence and to help provide a level playing field for traders.

Or. en

Amendment 120

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall not apply to ***distance*** contracts for the provision of services. However, in case of sales contracts providing both for the sale of goods and the provision of services, this Directive shall apply to the part relating to the sale of goods.

Amendment

2. This Directive shall not apply to contracts for the provision of services. However, in case of sales contracts providing both for the sale of goods and the provision of services, this Directive shall apply to the part relating to the sale of goods.

Or. en

Amendment 121

Constance Le Grip

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall not apply to ***distance*** contracts for the provision of services. However, in case of sales contracts providing both for the sale of goods and the provision of services, this Directive shall apply to the part relating to the sale of goods.

Amendment

2. This Directive shall not apply to contracts for the provision of services. However, in case of sales contracts providing both for the sale of goods and the provision of services, this Directive shall apply to the part relating to the sale of goods.

Or. fr

Amendment 122
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 1 – paragraph 3

Text proposed by the Commission

3. This Directive shall not apply to **any durable medium incorporating** digital content **where the durable medium has been used exclusively as a carrier for the supply of the digital content to the consumer.**

Amendment

3. This Directive shall not apply to **goods in which** digital content **or a digital service are embedded unless the seller proves that the lack of conformity lies in the hardware of the good. This Directive shall also not apply to tangible media which serve exclusively as carrier of digital content, unless the seller proves that the lack of conformity lies in the tangible medium.**

Or. en

Amendment 123
Daniel Buda

Proposal for a directive
Article 1 – paragraph 3

Text proposed by the Commission

3. This Directive shall not apply to any durable medium **incorporating** digital content **where the durable medium has been used exclusively as a carrier for the supply of the digital content to the consumer.**

Amendment

3. This Directive shall not apply to any durable medium **on which** digital content **is stored or to any good in which digital content is embedded, unless the seller can show that the lack of conformity lies in the non-digital part of that good.**

Or. ro

Amendment 124
Constance Le Grip

Proposal for a directive
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. This Directive shall not apply to ***any durable medium incorporating*** digital content ***where the durable medium has been used exclusively as a carrier for the supply of the digital content to the consumer.***

3. This Directive shall not apply to ***goods in which*** digital content ***is embedded unless the supplier proves that the lack of conformity with the contract lies in the hardware of the goods.***

Or. fr

Amendment 125

Victor Negrescu, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 1 – paragraph 4

Text proposed by the Commission

4. ***In so far as not regulated therein, this*** Directive shall not affect national general contract laws such as rules on formation, ***the*** validity or effects of contracts, including the consequences of the termination of a contract.

Amendment

4. This Directive shall not affect national general contract laws such as rules on ***the*** formation, validity or effects of contracts, ***limitation periods***, including the consequences of the termination of a contract.

Or. en

Amendment 126

Daniel Buda

Proposal for a directive

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. This Directive seeks to supplement EU sector-specific legislation; where it conflicts with a provision of another Union act governing a specific sector or subject matter, the provision of that other Union act shall prevail and shall apply to those specific sectors.

Or. ro

Amendment 127

Constance Le Grip

Proposal for a directive

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *This Directive shall not affect the possibility for Member States to introduce or maintain rules that offer consumers a legal guarantee against hidden defects, the duration of which would begin on the date on which the defect is discovered.*

Or. fr

Amendment 128

Daniel Buda

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) ‘sales contract’ means any contract under which the seller transfers or undertakes to transfer the ownership of goods, including goods which are to be manufactured or produced, to the consumer and the consumer pays or undertakes to pay the price thereof.

(a) ‘sales contract’ means any contract under which the seller transfers or undertakes to transfer the ownership of goods, including goods which are to be manufactured or produced – ***including according to the consumer's specifications*** – to the consumer and the consumer pays or undertakes to pay the price thereof.

Or. ro

Amendment 129

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 2 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) ‘consumer’ means any natural person who, in contracts covered by this Directive, is acting for purposes which are

(b) ‘consumer’ means any natural person who, in contracts covered by this Directive, is acting for purposes which are

outside his trade, business, craft or profession;

outside his trade, business, craft or profession; ***where the contract is concluded for a purpose which is partly within and partly outside that natural person's trade, business, craft or profession or an equivalent purpose and that purpose is so limited as not to be predominant in the overall context of the contract, that person shall also be considered to be a consumer;***

Or. en

Amendment 130

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) 'seller' means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Directive;

Amendment

(c) 'seller' means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf ***or as an intermediary for a natural person***, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Directive;

Or. en

Amendment 131

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 2 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) 'producer', in relation to goods, means the manufacturer of a finished product, the producer of any raw material or the manufacturer of a component part and any person who, by putting his name, trade mark or other distinguishing feature

on the product, holds himself out to be its producer;

Or. en

Amendment 132
Constance Le Grip

Proposal for a directive
Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) ‘embedded digital content’ means pre-installed digital content which operates as an integral part of the goods and cannot easily be de-installed by the consumer or which is necessary for the conformity of the goods with the contract;

Or. fr

Amendment 133
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 2 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) ‘embedded digital content or digital service’ means pre-installed digital content, or an inherent digital service, which operates as an integral part of the goods and cannot be easily uninstalled by the consumer or which is necessary for the conformity of the goods with the contract;

Or. en

Amendment 134
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

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Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) 'tangible medium' means a tangible moveable item which serves exclusively as a carrier of digital content or of a digital service;

Or. en

**Amendment 135
Constance Le Grip**

**Proposal for a directive
Article 2 – paragraph 1 – point e**

Text proposed by the Commission

Amendment

(e) 'distance sales contract' means any sales contract concluded under an organised distance scheme without the simultaneous physical presence of the seller and the consumer, with the exclusive use of one or more means of distance communication, including via internet, up to and including the time at which the contract is concluded;

deleted

Or. fr

**Amendment 136
Evelyne Gebhardt, Victor Negrescu**

**Proposal for a directive
Article 3**

Text proposed by the Commission

Amendment

Article 3

deleted

Level of harmonisation

Member States shall not maintain or introduce provisions diverging from those laid down in this Directive including more or less stringent provisions to ensure a different level of consumer protection.

Amendment 137

Gilles Lebreton

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

Member States **shall not** maintain or introduce provisions **diverging** from those laid down in this Directive **including more or less stringent provisions** to ensure a **different** level of consumer protection.

Amendment

Member States **may** maintain or introduce provisions **that diverge** from those laid down in this Directive to ensure a **higher** level of consumer protection.

Or. fr

Amendment 138

Daniel Buda

Proposal for a directive

Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. **The seller shall ensure that, in** order to conform with the contract, the goods shall, **where relevant**:

Amendment

1. **In** order to conform with the contract, the goods shall:

Or. ro

Amendment 139

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) **be of the quantity, quality and** description **required by the contract, which includes that** where **the seller shows** a sample or **a model to** the consumer, the goods shall **possess the quality of and correspond** to the
PE600.964v01-00

Amendment

(a) **possess the quality of and correspond to the** description of **the sample or model thereof**; where **a contract is concluded by reference to** a sample or **model of the goods that is seen or examined by** the consumer **before the**

description of this sample or model;

contract is concluded, the goods shall:
(i) match the sample or model except to the extent that any differences between the sample or model and the goods are brought to the consumer's attention before the contract is concluded; and
(ii) be free from any defect that renders their quality unsatisfactory and that would not be apparent on a reasonable examination of the sample or model;

Or. en

Amendment 140
Daniel Buda

Proposal for a directive
Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality and description required by the contract, which includes that where the seller shows a sample or a model to the consumer, the goods shall possess the quality of and correspond to the description of this sample or model;

Amendment

(a) be of the quantity, quality and description required by *any pre-contractual or contractual statement or by any other document forming an integral part of* the contract, which includes that where the seller shows a sample or a model to the consumer, the goods shall possess the quality of and correspond to the description of this sample or model;

Or. ro

Amendment 141
Jean-Marie Cavada

Proposal for a directive
Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality and description required by the contract, which includes that where the seller shows a sample or a model to the consumer, the goods shall possess the quality of and correspond to the description of this

Amendment

(a) be of the quantity, quality and description required by the contract – *including those referred to in any pre-contractual commitment or declaration* – which includes that where the seller shows a sample or a model to the consumer, the

sample or model;

goods shall possess the quality of and correspond to the description of this sample or model;

Or. fr

Amendment 142

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) be fit for any particular purpose for which the consumer requires them and which the consumer made known to the seller at the time of *the* conclusion of the contract *and which the seller has accepted*; and

Amendment

(b) be fit for any particular purpose for which the consumer requires them and which the consumer made known to the seller at the time of conclusion of the contract; and

Or. en

Amendment 143

Jean-Marie Cavada

Proposal for a directive

Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) *possess the qualities and performance capabilities indicated in any pre-contractual statement which forms an integral part of the contract.*

Amendment

deleted

Or. fr

Amendment 144

Jean-Marie Cavada

Proposal for a directive

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Where digital content is supplied over a period of time, the supplier shall, for the duration of that period, ensure that the digital content respects the rights of third parties, including those based on intellectual property, so that the digital content can be used in accordance with the contract.*

Or. fr

Amendment 145

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 4 – paragraph 3

Text proposed by the Commission

Amendment

3. Any agreement excluding, derogating from or varying the effects of Articles 5 and 6 to the detriment of the consumer *is valid only if, at the time of the conclusion of the contract, the consumer knew of the specific condition of the goods and the consumer has expressly accepted this specific condition when concluding the contract.*

3. Any agreement excluding, derogating from or varying the effects of Articles 5 and 6 to the detriment of the consumer *shall be invalid.*

Or. en

Amendment 146

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

The goods shall, where *relevant*:

The goods shall, where *applicable*:

Or. en

Amendment 147
Jean-Marie Cavada

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) be delivered along with such accessories including packaging, installation instructions or other instructions as the consumer may expect to receive; and

Amendment

(b) be delivered along with such accessories including packaging, installation instructions or other instructions as the consumer may **reasonably** expect to receive; and

Or. fr

Amendment 148
Daniel Buda

Proposal for a directive
Article 5 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) possess qualities and performance capabilities which are normal in goods of the same type and which the consumer may expect **given** the nature of the goods **and taking into account** any public statement made by or on behalf of the seller or other persons in earlier links of the chain of transactions, including the producer, unless the seller shows that:

Amendment

(c) possess qualities and performance capabilities which are normal in goods of the same type and which the consumer may **reasonably** expect. **That reasonableness shall be established objectively, taking into account the type and scope of the contract, the specific circumstances,** the nature of the goods, **conformity/non-conformity with the contract, the usages and practices of the parties concerned and** any public statement made by or on behalf of the seller or other persons in earlier links of the chain of transactions, including the producer, unless the seller shows that:

Or. ro

Amendment 149
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu, Mady Delvaux

Proposal for a directive
Article 5 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) possess qualities and performance **capabilities** which are normal in goods of the same type and which the consumer may expect given the nature of the goods and taking into account any public statement made by or on behalf of the seller or other persons in earlier links of the chain of transactions, **including the producer**, unless the seller **shows** that:

Amendment

(c) possess qualities and performance **features, including functionality, durability and security features**, which are normal in goods of the same type and which the consumer may expect given the nature of the goods, **taking into account, where relevant, any existing technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices**, and taking into account any public statement made by or on behalf of the seller or other persons in earlier links of the chain of transactions, unless the seller **can show** that:

Or. en

Amendment 150
Constance Le Grip

Proposal for a directive
Article 5 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) possess qualities and performance capabilities which are normal in goods of the same type and which the consumer may expect given the nature of the goods and taking into account any public statement made by or on behalf of the seller or other persons in earlier links of the chain of transactions, including the producer, unless the seller shows that:

Amendment

(c) possess qualities and performance capabilities which are normal in goods of the same type and which the consumer may **reasonably** expect given the nature of the goods and taking into account any public statement made by or on behalf of the seller or other persons in earlier links of the chain of transactions, including the producer, unless the seller shows that:

Or. fr

Amendment 151
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 5 – paragraph 1 – point c – point ii

Text proposed by the Commission

(ii) by the time of conclusion of the contract the statement had been corrected;
or

Amendment

(ii) by the time of conclusion of the contract the statement had been corrected ***and the consumer could not reasonably have been unaware of that correction***; or

Or. en

Amendment 152

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 5 – paragraph 1 – point c – point iii

Text proposed by the Commission

(iii) the decision to ***buy*** the goods could not have been influenced by the statement.

Amendment

(iii) the decision to ***acquire*** the goods could not have been influenced by the statement.

Or. en

Amendment 153

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5 a

Pre-contractual information

Where the provisions of Directive 2011/83/EU require the seller to provide information to the consumer before the contract becomes binding, any of that information that was provided by the seller other than information about the main characteristics of goods shall be deemed to be included as a term of the contract.

Or. en

Amendment 154
Jean-Marie Cavada

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods must be free from any right of a third party, including based on intellectual property, so that the goods can be used in accordance with the contract.

Amendment

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods must be free from any right of a third party, including based on intellectual property, so that the goods can be used in accordance with the contract. ***If the contract concerns cultural content, and therefore works necessarily protected by copyright, the conformity of the contract implies that all copyright laws have been complied with.***

Or. fr

Amendment 155
Daniel Buda

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods must be free from any right of a third party, including based on intellectual property, so that the goods can be used in accordance with the contract.

Amendment

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods must be free from any right of a third party, including based on intellectual property, so that the goods can be used in accordance with the contract ***and in line with the reasonable expectations of the consumer.***

Or. ro

Amendment 156
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods must be free from any right of a third party, including based on intellectual property, ***so that the goods can be used*** in accordance with the contract.

Amendment

The goods shall be free from any restriction resulting from any right of a third party, including ***any restriction*** based on intellectual property ***rights, that may prevent the consumer using the goods*** in accordance with the contract.

Or. en

Amendment 157
Constance Le Grip

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods ***must be free from*** any right of a third party, including based on intellectual property, so that the goods can be used in accordance with the contract.

Amendment

At the time relevant for establishing the conformity with the contract as determined by Article 8, the goods ***shall not violate*** any right of a third party, including based on intellectual property, so that the goods can be used in accordance with the contract.

Or. fr

Amendment 158
Daniel Buda

Proposal for a directive
Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the goods are handed over to the carrier chosen by the consumer, where that carrier was not proposed by the seller or where the seller proposes no means of carriage.

Amendment

(b) the goods are handed over to the carrier chosen by the consumer, where that carrier was not proposed by the seller or where the seller proposes no means of carriage; ***this provision shall in no way affect the rights of the consumer against the carrier.***

Or. ro

Amendment 159
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. In cases where the goods were installed by the seller or under the seller's responsibility, the time when the installation is complete shall be considered as the time when the consumer has acquired **the** physical possession of the goods. In a case where the goods were intended to be installed by the consumer, the time when the consumer had reasonable time for the installation **but in any case not later than 30 days after the time indicated in paragraph 1** shall be considered as the time when the consumer has acquired **the** physical possession of the goods.

Amendment

2. In cases where the goods were installed by the seller or under the seller's responsibility, the time when the installation is complete shall be considered as the time when the consumer has acquired physical possession of the goods. In a case where the goods were intended to be installed by the consumer, the time when the consumer had reasonable time for the installation shall be considered as the time when the consumer has acquired physical possession of the goods.

Or. en

Amendment 160
Evelyne Gebhardt, Victor Negrescu, Mady Delvaux

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

3. Any lack of conformity with the contract which becomes apparent within two years from the time indicated in paragraphs 1 and 2 **is** presumed to have existed at the time indicated in paragraphs 1 and 2 unless this is incompatible with the nature of the goods or with the nature of the lack of conformity.

Amendment

3. Any lack of conformity with the contract which becomes apparent within **not less than** two years from the time indicated in paragraphs 1 and 2 **shall be** presumed to have existed at the time indicated in paragraphs 1 and 2 unless this is incompatible with the nature of the goods or with the nature of the lack of conformity.

Or. en

Amendment 161

Mady Delvaux

Proposal for a directive

Article 8 – paragraph 3 – point a (new)

Text proposed by the Commission

Amendment

(a) Member States may maintain or introduce time limits that are longer than those laid down in paragraphs 2 and 3 where the goods concerned are fixtures.

Or. fr

Amendment 162

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. In the case of a lack of conformity with the contract, the consumer shall be entitled to ***have*** the goods brought into conformity ***by the seller, free of charge, by repair or replacement*** in accordance with Article 11.

1. In the case of a lack of conformity with the contract, the consumer shall be entitled to ***choose between the following remedies:***
(a) having the goods brought into conformity ***with the contract, in accordance with Article 11;***
(b) being granted a price reduction, in accordance with Article 12;
(c) terminating the contract, in accordance with Article 13.

Or. en

Amendment 163

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. A repair or replacement shall be completed within a reasonable time and

2. A repair or replacement shall be completed within a reasonable time, ***and in***

without any significant inconvenience to the consumer, taking account of the nature of the goods and the purpose for which the consumer required the goods.

any event within 30 days from the moment the seller has acquired physical possession of the goods, and without any significant inconvenience to the consumer, taking account of the nature of the goods and the purpose for which the consumer required the goods.

Or. en

Amendment 164
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 9 – paragraph 3 – introductory part

Text proposed by the Commission

3. The consumer shall be entitled to a proportionate reduction of the price in accordance with Article 12 or to terminate the contract in accordance with Article 13 where:

Amendment

3. The consumer shall ***also*** be entitled to a proportionate reduction of the price in accordance with Article 12 or to terminate the contract in accordance with Article 13 where ***the consumer has opted for repair or replacement, if:***

Or. en

Amendment 165
Jean-Marie Cavada

Proposal for a directive
Article 9 – paragraph 3 – point b

Text proposed by the Commission

(b) the seller has not completed repair or replacement within a reasonable time;

Amendment

(b) the seller has not completed repair or replacement within a reasonable time ***or within the time limit specified by the seller in the contract;***

Or. fr

Amendment 166
Jean-Marie Cavada

Proposal for a directive
Article 9 – paragraph 3 – point d

Text proposed by the Commission

(d) the seller has declared, or it is equally clear from the circumstances, that the seller will not bring the goods *in* conformity with the contract within a reasonable time.

Amendment

(d) the seller has declared, or it is equally clear from the circumstances, that the seller will not bring the goods *into* conformity with the contract within a reasonable time, *or within the time limit specified by the seller in the contract.*

Or. fr

Amendment 167
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 9 – paragraph 4

Text proposed by the Commission

4. The consumer shall be entitled to withhold the payment of any outstanding part of the price, until the seller has brought the goods into conformity with the contract.

Amendment

4. The consumer shall be entitled to withhold the payment of any outstanding part of the price, *or where the non-conformity is minor, an appropriate proportion of the outstanding amount of the price*, until the seller has brought the goods into conformity with the contract.

Or. en

Amendment 168
Gilles Lebreton

Proposal for a directive
Article 9 – paragraph 5

Text proposed by the Commission

5. *The consumer shall not be entitled to a remedy to the extent that the consumer has contributed to the lack of conformity with the contract or its effects.*

Amendment

deleted

Or. fr

Amendment 169
Evelyne Gebhardt, Lucy Anderson

Proposal for a directive
Article 9 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. This Article does not preclude the consumer from seeking any national remedies which may also be available.

Those national remedies may apply:

(a) in addition to the remedies provided for by this Article, but not so as to allow the consumer to recover twice for the same loss; or

(b) instead of the remedies provided for by this Article; or

(c) where no such remedy is provided for by this Article.

Or. en

Amendment 170
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu, Mady Delvaux

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the seller remedies the lack of conformity with the contract by replacement, the seller shall take back the replaced goods at the seller's expense ***unless the parties have agreed otherwise*** after the lack of conformity with the contract has been brought to the seller's attention by the consumer.

1. Where the seller remedies the lack of conformity with the contract by replacement, the seller shall take back the replaced goods at the seller's expense after the lack of conformity with the contract has been brought to the seller's attention by the consumer.

Or. en

Amendment 171

Constance Le Grip

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. Where the consumer had installed the goods in a manner consistent with their nature and purpose, before the lack of conformity with the contract became apparent, the obligation to take back the replaced goods ***shall include the removal of the non-conforming goods and the installation of*** replacement goods, or bearing the costs thereof.

Amendment

2. Where the consumer had installed the goods in a manner consistent with their nature and purpose before the lack of conformity with the contract became apparent, the ***seller may comply with the*** obligation to take back the replaced goods, ***either by removing*** the non-conforming goods and ***installing*** replacement goods, or ***by*** bearing the costs thereof.

Or. fr

Amendment 172

Angel Dzhambazki, Kosma Złotowski

Proposal for a directive
Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

The consumer may choose between repair and replacement unless the option chosen would be impossible, unlawful or, compared to the other option, would impose costs on the seller that would be disproportionate, taking into account all circumstances, including:

Amendment

If a proportionate reduction of the price, according to Article 12, is not available, the consumer should first be proposed a repair of the good. When the repair is technically difficult, economically disproportionate, or impossible compared to the other option, the consumer should be given the possibility to choose full replacement of the defective good with one matching the description and conforming with the original contract at no additional costs to the consumer, taking into account all circumstances, including:

Or. en

Justification

The purpose is to introduce a workable and balanced approach, not creating disproportionate imbalances between traders and consumers. Keeping in mind technical

feasibility of repairs and remedies, as well as online product-cycles, a hierarchy of remedies will provide for a clear structured guideline and legal clarity for industry and consumers.

Amendment 173

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

The consumer may choose between repair and replacement unless the option chosen would be impossible, unlawful or, compared to the other option, would impose costs on the seller that would be disproportionate, taking into account all circumstances, including:

Amendment

The consumer may choose between repair and replacement ***in order to have the goods brought into conformity*** unless the option chosen would be impossible ***or*** unlawful or, compared to the other option, would impose costs on the seller that would be disproportionate, taking into account all circumstances, including:

Or. en

Amendment 174

Daniel Buda

Proposal for a directive

Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

The consumer may choose between repair and replacement unless the ***option*** chosen would be impossible, unlawful or, compared to the ***other option***, would impose costs on the seller that would be disproportionate, taking into account all circumstances, including:

Amendment

The consumer may choose between repair and replacement, unless the ***remedy*** chosen would be impossible ***or*** unlawful or, compared to the ***alternative measure***, would impose costs on the seller that would be disproportionate, taking into account all circumstances, including:

Or. ro

Amendment 175

Angel Dzhambazki, Kosma Zlotowski

Proposal for a directive

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In cases where repair and replacement are not possible, the consumers shall be entitled to choose a refund or a reduction of the price.

Or. en

Amendment 176
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 12 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1 In the case of a lack of conformity of the goods with the contract, the consumer shall be entitled to an appropriate reduction of the price in the manner set out in paragraph 1.

Or. en

Amendment 177
Angel Dzhambazki, Kosma Złotowski

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission

Amendment

The reduction of price shall be proportionate to the decrease in the value of the goods which were received by the consumer compared to the value the goods would have if in conformity with the contract

A reduction of the price shall be available for minor defects which do not affect the use or functionality of the good. The reduction of price shall be proportionate to the decrease in the value of the goods which were received by the consumer compared to the value the goods would have if in conformity with the contract.

Or. en

Justification

The amendment seeks to clarify the article further. The consumer may claim a price reduction in case of a minor defect, i.e. a scratch., when the use of or functionality of the good is not impaired.

Amendment 178

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The seller shall reimburse the consumer without undue delay, and in any event within 14 days from the day on which the seller was informed of the consumer's decision to invoke his right to a price reduction.

Or. en

Amendment 179

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 12 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

The seller shall carry out the reimbursement using the same means of payment as the consumer used for the initial transaction, unless the consumer expressly agrees otherwise. The seller shall not impose any fees on the consumer in respect of the reimbursement.

Or. en

Amendment 180

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 13 – title

Text proposed by the Commission

The consumer's right to terminate the contract

Amendment

Termination of the contract for lack of conformity

Or. en

Amendment 181

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 13 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. In the case of a lack of conformity of the goods with the contract, the consumer shall be entitled to terminate the contract if the lack of conformity with the contract is not minor and if it has or may have a substantial effect on the consumer's use of the goods.

Or. en

Amendment 182

Daniel Buda

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. The consumer shall exercise the right to terminate the contract by ***notice*** to the seller ***given*** by any means.

1. The consumer shall exercise the right to terminate the contract by ***way of an unequivocal statement*** to the seller ***expressing the decision to terminate the contract. The consumer may communicate that statement*** by any means, ***be these traditional or up-to-the-minute, provided that these enable the text of the statement to be forwarded and its receipt to be confirmed.***

Or. ro

Amendment 183
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. The consumer shall exercise the right to **terminate** the contract by **notice to the seller given by any means**.

Amendment

1. The consumer shall exercise the right to **end** the contract by **an unequivocal statement setting out his or her decision to terminate the contract**.

Or. en

Amendment 184
Jean-Marie Cavada

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. The consumer shall exercise the right to terminate the contract by notice to the seller given by **any means**.

Amendment

1. The consumer shall exercise the right to terminate the contract by notice to the seller given by **means laid down in the contract**.

Or. fr

Amendment 185
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. Where the lack of conformity with the contract relates to only some of the goods delivered under the contract **and there is a ground for termination of a contract pursuant to Article 9**, the consumer may terminate the contract only in relation to those goods and any other

Amendment

2. Where the lack of conformity with the contract relates to only some of the goods delivered under the contract, the consumer may terminate the contract only in relation to those goods and any other goods which the consumer acquired as an accessory to **or in conjunction with** the

goods, which the consumer acquired as an accessory to the non-conforming goods.

non-conforming goods.

Or. en

Amendment 186
Evelyne Gebhardt, Victor Negrescu

Proposal for a directive
Article 13 – paragraph 3 – point a

Text proposed by the Commission

(a) the seller shall reimburse to the consumer ***the price paid*** without undue delay and in any event not later than 14 days from receipt of the ***notice and*** shall ***bear the cost*** of the reimbursement;

Amendment

(a) the seller shall reimburse to the consumer ***all sums received under the contract*** without undue delay and in any event not later than 14 days from receipt of the ***unequivocal statement on termination of the contract referred to in paragraph 1.*** ***The seller shall carry out the reimbursement using the same means of payment as the consumer used for the initial transaction, unless the consumer expressly agrees otherwise. The seller shall not impose any fee on the consumer in respect*** of the reimbursement;

Or. en

Amendment 187
Daniel Buda

Proposal for a directive
Article 13 – paragraph 3 – point a

Text proposed by the Commission

(a) the seller shall reimburse to the consumer the price paid without undue delay and in any event not later than 14 days from receipt of the ***notice*** and shall bear the cost of the reimbursement;

Amendment

(a) ***where the consumer terminates the contract in its entirety,*** the seller shall reimburse to the consumer the price paid without undue delay and in any event not later than 14 days from receipt of the ***statement under Article 13(1),*** and shall bear the cost of the reimbursement.

Or. ro

Amendment 188
Emil Radev

Proposal for a directive
Article 13 – paragraph 3 – point a

Text proposed by the Commission

(a) the seller shall reimburse to the consumer the price paid without undue delay and in any event not later than 14 days from receipt of the notice and shall bear the cost of the reimbursement;

Amendment

(a) the seller shall reimburse to the consumer the price paid without undue delay and in any event not later than 14 days from receipt of the notice *of termination* and shall bear the cost of the reimbursement *of that price*;

Or. bg

Amendment 189
Constance Le Grip

Proposal for a directive
Article 13 – paragraph 3 – point a

Text proposed by the Commission

(a) the seller shall reimburse to the consumer the price paid without undue delay and in any event not later than 14 days from receipt of the notice and shall bear *the cost of* the reimbursement;

Amendment

(a) the seller shall reimburse to the consumer the price paid without undue delay and in any event not later than 14 days from receipt of the notice and shall bear *any costs associated with* the reimbursement;

Or. fr

Amendment 190
Emil Radev

Proposal for a directive
Article 13 – paragraph 3 – point a (new)

Text proposed by the Commission

Amendment

(aa) *the seller shall reimburse the sum paid to him or her using the same means of payment originally used by the*

consumer, unless the consumer has explicitly given his or her consent to the use of a different means of payment and provided that such means do not entail any cost to the consumer.

The consumer shall provide the information, e.g. bank account details, necessary for the reimbursement of the price paid, and shall not do anything to obstruct the making of the requisite payment;

Or. bg

Amendment 191
Daniel Buda

Proposal for a directive
Article 13 – paragraph 3 – point a a (new)

Text proposed by the Commission

Amendment

(aa) where the consumer terminates a part of the contract, the seller shall reimburse to the consumer the part of the price paid corresponding to the goods which are not in conformity with the contract and any other goods which the consumer acquired as an accessory to the non-conforming goods;

Or. ro

Amendment 192
Daniel Buda

Proposal for a directive
Article 13 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the consumer shall return, at the seller's expense, to the seller the goods without undue delay and in any event not later than 14 days from sending the *notice of termination*;

(b) the consumer shall return, at the seller's expense, to the seller the goods without undue delay and in any event not later than 14 days from sending the *statement terminating the contract, in*

accordance with Article 13(2);

Or. ro

Amendment 193

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 13 – paragraph 3 – point b

Text proposed by the Commission

(b) the consumer shall return, at the seller's expense, to the seller the goods without undue delay *and in any event not later than 14 days from sending the notice of termination*;

Amendment

(b) the consumer shall return, at the seller's expense, to the seller the goods without undue delay *after sending the unequivocal statement on termination of the contract referred to in paragraph 1*;

Or. en

Amendment 194

Emil Radev

Proposal for a directive

Article 13 – paragraph 3 – point 6 a (new)

Text proposed by the Commission

Amendment

(ba) the seller shall be entitled to withhold payment of all or part of the amount to be reimbursed pending either receipt of the goods or presentation of proof that they have been dispatched, whichever occurs sooner.

Or. bg

Amendment 195

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13 a

Short-term right to reject

Without prejudice to any other rights under this Directive or otherwise, the consumer shall have a right to reject goods for non-conformity with the contract by returning them within 30 days of receipt.

Or. en

Amendment 196

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 14 – paragraph 1

Text proposed by the Commission

The consumer shall be entitled to a remedy for the lack of conformity with the contract of the goods where the lack of conformity becomes apparent within two years *as* from the relevant time for establishing conformity. If, under national legislation, the rights laid down in Article 9 are subject to a limitation period, that period shall not be shorter than two years from the relevant time for establishing conformity with the contract.

Amendment

The consumer shall be entitled to a remedy for the lack of conformity with the contract of the goods where the lack of conformity becomes apparent within *a period of not less than* two years from the relevant time for establishing conformity. If, under national legislation, the rights laid down in Article 9 are subject to a limitation period, that period shall not be shorter than two years from the relevant time for establishing conformity with the contract.

Or. en

Amendment 197

Evelyne Gebhardt, Victor Negrescu

Proposal for a directive

Article 15 – paragraph 2 – introductory part

Text proposed by the Commission

2. The guarantee statement shall be made available *on a* durable medium and drafted in plain, intelligible language. It shall include the following:

Amendment

2. The guarantee statement shall be made available *in writing or on another* durable medium and *shall be* drafted in plain, intelligible language. It shall include the following:

Justification

In alignment with Art. 6 Par.3 of Directive 1999/44/EC.

Amendment 198

Evelyne Gebhardt, Heidi Hautala, Lucy Anderson, Victor Negrescu

Proposal for a directive**Article 15 a (new)**

Text proposed by the Commission

Amendment

Article 15 a***Commercial guarantees for lifespan***

1. The producer of an energy-related product as defined in Article 2(1) of Directive 2009/125/EC of the European Parliament and of the Council^{1a} shall:

(a) guarantee to the consumer the fitness of the product for such foreseeable minimum lifespan, as is normal in goods of the same type, and shall indicate the duration of this lifespan, or

(b) clearly indicate that he does not guarantee the fitness of the product during its lifespan.

This information shall be made available to the consumer as a contractual guarantee at the time where he enters into the contract.

2. If the producer does not fulfil his obligations according to paragraph 1, the consumer shall be entitled to have the goods brought into conformity with the contract by the producer in accordance with Article 11.

^{1a} Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).

Amendment 199
Constance Le Grip

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Information on the lifespan of certain goods

- 1. Producers of energy-related products as defined in Article 2(1) of Directive 2009/125/EC shall inform their customers of the minimum lifespan of their products if used for the purposes intended.***
- 2. Before concluding the contract of sale, sellers shall inform consumers of the lifespan referred to in paragraph 1 and clearly indicate whether they intend to offer consumers a commercial guarantee for that lifespan.***
- 3. Paragraphs 1 and 2 shall not apply where the lifespan referred to in paragraph 1 is shorter than the minimum time limit provided for in Article 14.***

Or. fr

Amendment 200
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

Amendment

Where the seller is liable to the consumer because of a lack of conformity with the contract resulting from an act or omission by a person in earlier links of the chain of transactions, the seller shall be entitled to pursue remedies against the person or persons liable in the chain of transactions.

Where the seller is liable to the consumer because of a lack of conformity with the contract resulting from an act or omission by a person in earlier links of the chain of transactions, the seller shall be entitled to pursue remedies against the person or persons liable in the chain of transactions.

The person against whom the seller may pursue remedies and the relevant actions and conditions of exercise, shall be determined by national law.

The person against whom the seller may pursue remedies, and the relevant actions and conditions of exercise, shall be determined by national law. ***However, the seller shall be entitled to pursue remedies for at least the duration of the legal guarantee period, and the period during which a presumption exists that any lack of conformity with the contract already existed at the time indicated in Article 8(1) and (2) shall be no shorter than as provided for in Article 8(3).***

Or. en

Amendment 201
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16 a

Information requirement on spare parts and accessories

The seller shall inform the consumer in a clear and intelligible manner of the existence of any spare parts or accessories available on the market and necessary for the use of the goods sold.

Or. en

Amendment 202
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 17 – title

Text proposed by the Commission

Amendment

Enforcement

Enforcement ***and information***

Or. en

Amendment 203

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive.

Amendment

1. Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive, ***taking account in particular of the need for consumers to be informed about their rights and enabled and facilitated to enforce those rights in practice. Such means shall include legal mechanisms to enable two or more natural persons or their representative entities to claim remedies collectively where appropriate.***

Or. en

Amendment 204

Evelyne Gebhardt, Lucy Anderson

Proposal for a directive

Article 17 – paragraph 2 – introductory part

Text proposed by the Commission

2. The means referred to in paragraph 1 shall include provisions whereby ***one or more of the following bodies***, as determined by national law, may take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are applied:

Amendment

2. The means referred to in paragraph 1 shall include provisions whereby ***representative bodies, under justified and appropriate criteria*** as determined by national law, may take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are applied. ***Such bodies shall include but shall not be limited to:***

Or. en

Amendment 205

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 17 – paragraph 2 – point a

Text proposed by the Commission

(a) public bodies or their representatives;

Amendment

(a) public bodies or their representatives; **and**

Or. en

Amendment 206
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 17 – paragraph 2 – point b

Text proposed by the Commission

(b) consumer organisations having a legitimate interest in protecting consumers;

Amendment

(b) consumer organisations having a legitimate interest in protecting consumers;
and

Or. en

Amendment 207
Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

Any contractual agreement which, to the detriment of the consumer, excludes the application of national measures transposing this Directive, derogates from them or varies their effect before the lack of conformity with the contract of the goods is brought to the seller's attention by the consumer shall not be binding on the consumer ***unless parties to the contract exclude, derogate from or vary the effects of the requirements of Articles 5 and 6 in accordance with Article 4 (3).***

Amendment

Any contractual agreement which, to the detriment of the consumer, excludes the application of national measures transposing this Directive, derogates from them or varies their effect before the lack of conformity with the contract of the goods is brought to the seller's attention by the consumer shall not be binding on the consumer.

Or. en

Amendment 208
Constance Le Grip

Proposal for a directive
Article 19 – title

Text proposed by the Commission

Amendments to *Directive 1999/44/EC*,
Regulation (EC) No 2006/2004 and
Directive 2009/22/EC

Amendment

Amendments to Regulation (EC) No
2006/2004 and Directive 2009/22/EC

Or. fr

Amendment 209
Constance Le Grip

Proposal for a directive
Article 19 – paragraph 1

Directive 1999/44/EC
Article 1

Text proposed by the Commission

1. Article 1 of Directive 1999/44/EC
is amended as follows:

deleted

(a) paragraph 1 is replaced by the
following:

"1. The purpose of this Directive is the
approximation of the laws, regulations
and administrative provisions of the
Member States on certain aspects of
contracts for the sale of consumer goods
and associated guarantees, which are not
distance sales contracts, in order to
ensure a uniform minimum level of
consumer protection in the context of the
internal market."

(i) point (f) is replaced by the following:

"(f) repair: shall mean, in the event of
lack of conformity, bringing consumer
goods into conformity with the contract of
sale;"

"g) 'distance sales contract' means any
sales contract concluded under an

organised distance scheme without the simultaneous physical presence of the seller and the consumer, with the exclusive use of one or more means of distance communication, including via internet, up to and including the time at which the contract is concluded"

Or. fr

Amendment 210
Constance Le Grip

Proposal for a directive
Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Repeal of Directive 1999/44/EC

Directive 1999/44/EC shall be repealed as of the date referred to in Article 20(1).

Or. fr

Amendment 211
Evelyne Gebhardt

Proposal for a directive
Article 20 a (new)

Text proposed by the Commission

Amendment

Article 20 a

National law and minimum protection

1. The rights resulting from this Directive shall be exercised without prejudice to other rights which the consumer may invoke under the national rules governing contractual or non-contractual liability.

2. Member States may adopt or maintain in force more stringent provisions, compatible with the Treaty in the field covered by this Directive, to ensure a

higher level of consumer protection.

Or. en

Amendment 212

Evelyne Gebhardt, Lucy Anderson, Victor Negrescu

Proposal for a directive

Article 20 b (new)

Text proposed by the Commission

Amendment

Article 20 b

Review

1. The Commission shall keep the application and implementation of this Directive under close scrutiny and review. This process shall include meaningful and detailed consultation and involvement of the Member States and of consumer, legal and business organisations at Union level.

2. No later than within three years from its entry into application, the Commission shall submit a report to the European Parliament and to the Council taking full account of the process of scrutiny and review referred to in paragraph 1. That report shall include, inter alia, a detailed analysis of the impact of provisions of this Directive on the burden of proof in Member States.

Or. en