AMENDMENTS
674 - 1134

Draft report
Andreas Schwab
(PE442.789v04-00)

on Consumer rights

Proposal for a directive
Amendment 674
Evelyne Gebhardt

Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

3a. where applicable, if the trader concludes a sales or service contract with a clearly disadvantaged group of consumers, be it on grounds of mental or physical disability or on the basis of age, and if this disadvantage is perceptible by the trader, in this given case the information has to be clear and comprehensible for an average consumer of this group.

Or.en

Amendment 675
Evelyne Gebhardt

Proposal for a directive
Article 5 – paragraph 3 b (new)

Text proposed by the Commission

3b. this article shall not influence, the information requirements that are imposed upon the salesperson by specific legislation of the European Union.

Or.en

Amendment 676
Evelyne Gebhardt

Proposal for a directive
Article 5 – paragraph 3 c (new)
3c. The burden of proof for the compliance with the required information mentioned in paragraph 1 lies with the trader.

Amendment 677
Evelyne Gebhardt

Proposal for a directive
Article 5 – paragraph 3 d (new)

3d. The required information, that has to be provided according to this chapter, has to be formulated in a clear and intelligible language and be legible.

Amendment 678
Andreas Schwab, Wim van de Camp, Konstantinos Poupakis, Małgorzata Handzlik, Sandra Kalniete, Lara Comi, Pablo Arias Echeverría

Proposal for a directive
Article 5 – paragraph 3 e (new)

Amendment 679
Zuzana Roithová
Proposal for a directive
Article 5 – paragraph 3 a (new)

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Text proposed by the Commission

3a. The trader bears the burden of proof that he has provided the information required by this Article.

Amendment

Or.en

Amendment 680
Zuzana Roithová
Proposal for a directive
Article 5 – paragraph 3 b (new)

Text proposed by the Commission

3b. The information provided according to this Article shall be given in plain, intelligible language, be legible and in the same font size.

Amendment

Or.en

Amendment 681
Zuzana Roithová
Proposal for a directive
Article 5 – paragraph 3 c (new)

Text proposed by the Commission

3c. Where the trader engages in the conclusion of sales or service contracts with a clearly identifiable group of consumers who are particularly vulnerable to the commercial practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, the
information to be provided under this Article shall be provided in language, which is plain and intelligible for the average member of that group.

Amendment 682
Zuzana Roithová

Proposal for a directive
Article 5 – paragraph 3 d (new)

Text proposed by the Commission  
Amendment

3d. This Article shall not affect information requirements imposed on traders on the basis of specific Community legislation.

Amendment 683
Catherine Soullie

Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission  
Amendment

3a. The information requirements referred to in paragraph 1 shall be deemed to have been successfully fulfilled by the trader when the information is provided in such a way so as to guarantee full awareness of the average consumer, who is expected to be observant and circumspect when concluding a contract.
Amendment 684  
Damien Abad

Proposal for a directive  
Article 5 a (new)

*Text proposed by the Commission*

**Article 5a**

*Except where otherwise provided by this directive, Member States shall not maintain or adopt in their national law provisions which diverge from those set out in this chapter, including stricter or less strict provisions seeking to guarantee a different level of consumer protection.*

Or.fr

**Justification**

*Chapters II and III have been merged as proposed by the rapporteur. The general principle for the interpretation of this chapter is that of maximum harmonisation, except where the directive provides otherwise, particularly in Articles 12(4) and 20a.*

Amendment 685  
Cornelis de Jong

Proposal for a directive  
Article 5 a (new)

*Text proposed by the Commission*

**Article 5a**

*Member States may, where necessary in order to ensure a higher level of consumer protection, maintain or introduce, in their national law, provisions diverging from those laid down in Article 5.*

Or.en
Amendment 686
Robert Rochefort

Proposal for a directive
Article 6 – paragraph -1 (new)

Text proposed by the Commission
Amendment

-1. Member States may maintain or adopt
in their national law stricter provisions
than those set out in this article with a
view to guaranteeing a higher level of
consumer protection.

Or.fr

Justification

To clarify that minimum harmonisation applies in the case of Article 6.

Amendment 687
Emilie Turunen

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission
Amendment

2. Without prejudice to Articles 7(2), 13
and 42, the consequences of any breach of
Article 5, shall be determined in
accordance with the applicable national
law. Member States shall provide in their
national laws for effective contract law
remedies for any breach of Article 5.

2. Without prejudice to Articles 7(2), 13
and 42, the consequences of any breach of
Article 5, shall be determined in
accordance with the applicable national
law. Member States shall provide in their
national laws for effective contract law
remedies for any breach of Article 5.

If the trader has not complied with any
other information requirement as referred
to in paragraph 1, the consumer may
(a) avoid the contract, unless this is
unreasonable in the circumstances;
or
(b) claim damages for any loss resulting
from the failure to comply with the
information requirement.
It is desirable to introduce a minimum standard for consequences for a failure to provide information.

Amendment 688
Werner Langen, Kurt Lechner

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5, shall be determined in accordance with the applicable national law. Member States shall provide in their national laws for effective contract law remedies for any breach of Article 5.

Amendment

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5, shall be determined in accordance with the applicable national law. Member States shall provide in their national laws for effective and proportionate contract law remedies for any breach of Article 5.

Or. de

Justification

The proportionality principle is an established legal principle in the context of applying Community rules, and should not be neglected in this directive. It should be left to the Member States to determine the optimum legal remedies in accordance with their respective legal traditions.

Amendment 689
Robert Rochefort

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5, shall be determined in accordance with the applicable national

Amendment

2. Without prejudice to Articles 13 and 42, the consequences of any breach of Article 5 shall be determined in accordance with the applicable national law. Member States
law. Member States shall provide in their national laws for effective contract law remedies for any breach of Article 5.

shall provide for effective remedies for any breach of Article 5.

Or.fr

Amendment 690
Evelyne Gebhardt

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5, shall be determined in accordance with the applicable national law. Member States shall provide in their national laws for effective contract law remedies for any breach of Article 5.

Amendment

2. Does the trader not comply with any of the information requirements referred to in paragraph 1, the consumer may

a) declare the contract as void, unless this leads to unreasonable circumstances;

b) claim damages for any loss resulting from the failure to comply with the information requirements

Or.en

Amendment 691
Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5, shall be determined in accordance with the applicable national law. Member States shall provide in their national laws for effective contract law remedies for any breach of Article 5.

Amendment

2. Without prejudice to Articles 13 and 42, the consequences of any breach of Article 5 shall be determined in accordance with the applicable national law. Member States shall provide for effective remedies for any breach of Article 5.
It is important to allow Member States the discretion to determine freely which texts should provide for effective remedies for any breach of Article 5 and the place such texts should occupy in national law.

Amendment 692
Othmar Karas
Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5 shall be determined in accordance with the applicable national law. Member States shall provide in their national laws for effective contract law remedies for any breach of Article 5.

Amendment

2. Without prejudice to Articles 7(2), 13 and 42, the consequences of any breach of Article 5 shall be determined in accordance with the applicable national law.

Justification

The actual consequences of Member States’ being obliged to provide for ‘effective contract law remedies’ against any breach of the information requirements are unpredictable. It is to be assumed, however, that it will have extremely explosive consequences, which will only become apparent following Court of Justice rulings. The legal uncertainty that would result is undesirable.

Amendment 693
Robert Rochefort
Proposal for a directive
Article 7

Text proposed by the Commission

Specific information requirements for

Article 7 deleted
intermediaries

1. Prior to the conclusion of the contract, the intermediary shall disclose to the consumer, that he is acting in the name of or on behalf of another consumer and that the contract concluded, shall not be regarded as a contract between the consumer and the trader but rather as a contract between two consumers and as such falling outside the scope of this Directive.

2. The intermediary, who does not fulfil the obligation under paragraph 1, shall be deemed to have concluded the contract in his own name.

3. This Article shall not apply to public auctions.

Amendment 694
Emilie Turunen

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Prior to the conclusion of the contract, the intermediary shall disclose to the consumer, that he is acting in the name of or on behalf of another consumer and that the contract concluded, shall not be regarded as a contract between the consumer and the trader but rather as a contract between two consumers and as such falling outside the scope of this Directive.

Or.en
Amendment 695
Sylvana Rapti, Konstantinos Poupakis

Proposal for a directive
Article 7 – paragraph 1

**Text proposed by the Commission**

1. Prior to the conclusion of the contract, the intermediary shall disclose to the consumer, that he is acting in the name of or on behalf of another consumer and that the contract concluded, shall not be regarded as a contract between the consumer and the trader but rather as a contract between two consumers and as such **falling** outside the scope of this Directive.

**Amendment**

1. Prior to the conclusion of the contract, the intermediary shall disclose to the consumer, that he is acting in the name of or on behalf of another consumer and that the contract concluded, shall not be regarded as a contract between the consumer and the trader but rather as a contract between two consumers and it **shall be made clear to the consumer that** the contract falls **outside the scope of this Directive and that the consumer therefore does not enjoy the protection afforded under the provisions thereof.**

Or.el

Amendment 696
Emilie Turunen

Proposal for a directive
Article 7 – paragraph 2 a (new)

**Text proposed by the Commission**

2a. This article is without prejudice to national legislations that consider certain contracts concluded through an intermediary as business-to-consumer contracts

**Amendment**

2a. This article is without prejudice to national legislations that consider certain contracts concluded through an intermediary as business-to-consumer contracts

Or.en

Justification

Certain contracts concluded through the intervention of an intermediary can be considered business-to-consumer contracts, for example in the case of certain second-hand sellings and online transactions.
Amendment 697
Jürgen Creutzmann

Proposal for a directive
Chapter 3 – title

Text proposed by the Commission Amendment

Consumer information and withdrawal deleted
right for distance and off-premises contracts

Or. de

Amendment 698
Othmar Karas

Proposal for a directive
Chapter 3 – title (new)

Text proposed by the Commission Amendment

Targeted full harmonisation

Or. de

Amendment 699
Othmar Karas

Proposal for a directive
Article 8 a (new)

Text proposed by the Commission Amendment

Article 8a

Save as otherwise provided by this
Chapter, Member States may not
maintain or introduce, in their national
law, provisions diverging from those laid
down in this Chapter in order to ensure a
different level of consumer protection.

Or. de
Amendment 700
Robert Rochefort

Proposal for a directive
Article 8

Text proposed by the Commission

Article 8 deleted

Scope
This Chapter shall apply to distance and off-premises contracts.

Justification
Follows on from the rearrangement of Chapters II and III of the Commission proposal on consumer information and the right of withdrawal regarding distance and off-premises contracts.

Amendment 701
Jürgen Creutzmann

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

This Chapter shall apply to distance and off-premises contracts. deleted

Or. de

Amendment 702
Robert Rochefort

Proposal for a directive
Article 9

Text proposed by the Commission

Article 9 deleted
Information requirements for distance and off-premises contracts

As regards distance or off-premises contracts, the trader shall provide the following information which shall form an integral part of the contract:

(a) the information referred to in Articles 5 and 7 and, by way of derogation from Article 5(1)(d), the arrangements for payment, delivery and performance in all cases;

(b) where a right of withdrawal applies, the conditions and procedures for exercising that right in accordance with Annex I;

(c) if different from his geographical address, the geographical address of the place of business of the trader (and where applicable that of the trader on whose behalf he is acting) where the consumer can address any complaints;

(d) the existence of codes of conduct and how they can be obtained, where applicable;

(e) the possibility of having recourse to an amicable dispute settlement, where applicable;

(f) that the contract will be concluded with a trader and as a result that the consumer will benefit from the protection afforded by this Directive.

Justification

Follows on from the rearrangement of Chapters II and III of the Commission proposal on consumer information and the right of withdrawal regarding distance and off-premises contracts.
Proposal for a directive

Article 9

Text proposed by the Commission

Amendment

Article 9 deleted

Information requirements for distance and off-premises contracts

As regards distance or off-premises contracts, the trader shall provide the following information which shall form an integral part of the contract:

(a) the information referred to in Articles 5 and 7 and, by way of derogation from Article 5(1)(d), the arrangements for payment, delivery and performance in all cases;

(b) where a right of withdrawal applies, the conditions and procedures for exercising that right in accordance with Annex I;

(c) if different from his geographical address, the geographical address of the place of business of the trader (and where applicable that of the trader on whose behalf he is acting) where the consumer can address any complaints;

(d) the existence of codes of conduct and how they can be obtained, where applicable;

(e) the possibility of having recourse to an amicable dispute settlement, where applicable;

(f) that the contract will be concluded with a trader and as a result that the consumer will benefit from the protection afforded by this Directive.

Or. de
Amendment 704
Kurt Lechner

Proposal for a directive
Article 9 – paragraph 1 – introductory part

Text proposed by the Commission
As regards distance or off-premises contracts, the trader shall provide the following information which shall form an integral part of the contract:

Amendment
As regards distance or off-premises contracts, the trader shall provide the following information:

Or. de

Amendment 705
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point a

Text proposed by the Commission
(a) the information referred to in Articles 5 and 7 and, by way of derogation from Article 5(1)(d), the arrangements for payment, delivery and performance in all cases;

Amendment
(a) the information referred to in Articles 5 and 7;

Or.en

Amendment 706
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point a

Text proposed by the Commission
(a) the information referred to in Articles 5 and 7 and, by way of derogation from Article 5(1)(d), the arrangements for payment, delivery and performance in all cases;

Amendment
(a) the information referred to in Articles 5 and 7;

Or.en
Amendment 707
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) The identity of the representative of the seller in the country of residence of the consumer, where appropriate

Or.en

Amendment 708
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) where appropriate, the identity of the representative of the seller in the country of residence of the consumer;

Or.en

Amendment 709
Catherine Stihler

Proposal for a directive
Article 9 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) The identity of the representative of the seller in the country of residence of the consumer, where appropriate;

Or.en
Amendment 710
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point b

Text proposed by the Commission
(b) where a right of withdrawal applies, the conditions and procedures for exercising that right in accordance with Annex I;

Amendment
deleted

Or.en

Amendment 711
Catherine Stihler

Proposal for a directive
Article 9 – paragraph 1 – point b

Text proposed by the Commission
(b) where a right of withdrawal applies, the conditions and procedures for exercising that right in accordance with Annex I;

Amendment
deleted

Or.en

Amendment 712
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point b

Text proposed by the Commission
(b) where a right of withdrawal applies, the conditions and procedures for exercising that right in accordance with Annex I;

Amendment
(b) the conditions and procedures for exercising the right of withdrawal in accordance with Annex I;

Or.en
Amendment 713
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) if different from his geographical
address, the geographical address of the
place of business of the trader (and where
applicable that of the trader on whose
behalf he is acting) where the consumer
can address any complaints;

Amendment

Or.en

Amendment 714
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) if different from his geographical
address, the geographical address of the
place of business of the trader (and where
applicable that of the trader on whose
behalf he is acting) where the consumer
can address any complaints;

Amendment

Or.en

Amendment 715
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point d

Text proposed by the Commission

(d) the existence of codes of conduct and
how they can be obtained, where
applicable;

Amendment

Or.en
Amendment 716
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point d

Text proposed by the Commission  
\textit{Amendment}

(d) the existence of codes of conduct and deleted
how they can be obtained, where applicable;

Amendment 717
Kurt Lechner

Proposal for a directive
Article 9 – paragraph 1 – point d

Text proposed by the Commission  
\textit{Amendment}

(d) the existence of codes of conduct and deleted
how they can be obtained, where applicable;

Amendment 718
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point d a (new)

Text proposed by the Commission  
\textit{Amendment}

(da) Information on the costs of the means of communication;

Or.en
Amendment 719
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point d a (new)

\begin{itemize}
\item Text proposed by the Commission: \textit{Information on the cost of the means of communication;}
\item Amendment: \textit{Information on the cost of the means of communication;}
\end{itemize}

Or.en

Amendment 720
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point e

\begin{itemize}
\item Text proposed by the Commission: \textit{the possibility of having recourse to an amicable dispute settlement, where applicable;}
\item Amendment: \textit{the possibility of having recourse to an amicable dispute settlement, where applicable;}
\end{itemize}

Or.en

Amendment 721
Werner Langen, Kurt Lechner

Proposal for a directive
Article 9 – paragraph 1 – point e

\begin{itemize}
\item Text proposed by the Commission: \textit{the possibility of having recourse to an amicable dispute settlement, where applicable;}
\item Amendment: \textit{the possibility of having recourse to an amicable dispute settlement, where applicable;}
\end{itemize}

Or. de

\textbf{Justification}

Traders cannot be expected to possess legal knowledge about all possible means of dispute settlement. It is, furthermore, not up to them to provide consumers with special information of this kind, this task being a matter for the state.
Amendment 722
Kurt Lechner

Proposal for a directive
Article 9 – paragraph 1 – point e

Text proposed by the Commission
Amendment

(e) the possibility of having recourse to an amicable dispute settlement, where applicable;

deleted

Amendment 723
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point e

Text proposed by the Commission
Amendment

(e) the possibility of having recourse to an amicable dispute settlement, where applicable;

(e) the possibility of having recourse to appropriate redress mechanisms, including collective redress and alternative dispute resolution systems;

Or.en

Amendment 724
Emilie Turunen

Proposal for a directive
Article 9 – paragraph 1 – point f

Text proposed by the Commission
Amendment

(f) that the contract will be concluded with a trader and as a result that the consumer will benefit from the protection afforded by this Directive.

deleted

Or.en
Amendment 725
Evelyne Gebhardt

Proposal for a directive
Article 9 – paragraph 1 – point f

Text proposed by the Commission

(f) that the contract will be concluded with a trader and as a result that the consumer will benefit from the protection afforded by this Directive.

Amendment

deleted

Or.en

Amendment 726
Kurt Lechner

Proposal for a directive
Article 9 – paragraph 1 – point f

Text proposed by the Commission

(f) that the contract will be concluded with a trader and as a result that the consumer will benefit from the protection afforded by this Directive.

Amendment

deleted

Or. de

Amendment 727
Malcolm Harbour

Proposal for a directive
Article 9 – paragraph 1 – point f a (new)

Text proposed by the Commission

(fa) with respect to an off premises contract for the provision of services (including where goods are provided as part of the transaction), that the consumer would be liable to pay the trader a reasonable amount calculated according to Article 17(4), in the event of exercising the right of withdrawal after having made
a request pursuant to Article 10(2a).

Amendment 728
Emilie Turunen
Proposal for a directive
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The trader bears the burden of proof that he/she has provided the information required by this article.

Or.en

Amendment 729
Evelyne Gebhardt
Proposal for a directive
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The trader bears the burden of proof that he/she has provided the information required by this Article.

Or.en

Amendment 730
Cristian Silviu Buşoi, Edvard Kožušník
Proposal for a directive
Article 10 – title

Text proposed by the Commission

Amendment

Formal requirements for off-premises contracts

Pre-contractual formal requirements for off-premises contracts.

Or.en
Justification

Articles 10 and 11 concern in contrahendo pre-contractual obligations. The amendments aim at clarifying this fact, thus avoiding misunderstandings with regard to Member States’ general provisions of contract law relating to the conclusion of a contract, which are not covered by this directive.

Amendment 731
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 10 – title

Text proposed by the Commission
Formal requirements for off-premises contracts.

Amendment
Formal preliminary contract requirements regarding fulfilment of obligations concerning the provision of information in off-premises contracts.

Or.el

Amendment 732
Kurt Lechner

Proposal for a directive
Article 10 – title

Text proposed by the Commission
Formal requirements for off-premises contracts.

Amendment
Pre-contractual formal requirements for off-premises contracts.

Or. de

Amendment 733
Robert Rochefort

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission
1. With respect to off-premises contracts, the information provided for in Article 9

Amendment
1. With respect to off-premises contracts, the information provided for in Article 5
The order form shall include the standard withdrawal form set out in Annex I(B). It shall be forwarded to the consumer in good time, and at any event before the conclusion of the off-premises contract. Where the order form is not on paper, the consumer shall receive a copy of the order form on another durable medium of his choice. Accordingly the consumer shall in any event have the option of requesting a paper document.

**Justification**

S'agissant des contrats hors établissement, il convient de maintenir la notion d'informations reprises sur le bon de commande. Il y a lieu par ailleurs d'éviter les situations dans lesquelles le professionnel pourrait déclarer avoir répondu à ses obligations d'informations pré-contractuelles tout en ayant délivré au consommateur un bon de commande que ce dernier ne pourrait lire ou déchiffrer correctement car n'étant pas pourvu des instruments adaptés à ce type de support. Le consommateur doit en conséquence pouvoir choisir le type de support durable, et en tout état de cause toujours pouvoir exiger un document papier.

**Amendment 734**

Liem Hoang Ngoc

**Proposal for a directive**

**Article 10 – paragraph 1**

**Text proposed by the Commission**

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

**Amendment**

1. With respect to off-premises contracts, the information provided for in Article 9 shall be supplied to the consumer in the order form. Such information shall be legible and worded in plain and intelligible language.
legible and worded in plain and intelligible language.

Amendment 735
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

Amendment

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language, including the language of the consumer, and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

Amendment 736
Damien Abad, Philippe Juvin

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

Amendment

1. In good time and at any event before the conclusion of the off-premises contract, the information referred to in Article 5 shall be supplied to the consumer on a durable medium in plain and intelligible language and be legible. The information supplied shall include the standard withdrawal form provided for in Annex I(B). The consumer shall choose the durable medium on which the information is set out and shall at any event have the option of requesting a paper document.
**Justification**

Seeks to avoid a situation whereby the trader is able to state that he has met all his pre-contractual information obligations while providing the consumer with a durable medium which the latter is unable to read or decipher because he does not possess the necessary equipment (DVD or CD player, etc.).

**Amendment 737**

Andreas Schwab, Wim van de Camp, Anna Maria Corazza Bildt, Lara Comi

Proposal for a directive

Article 10 – paragraph 1

*Text proposed by the Commission*

1. With respect to contracts *that are concluded off-premises*, the information provided for in Article 9 shall be given in the order form. It shall be drafted in plain, intelligible language and be legible. *The order form shall include the standard withdrawal form set out in Annex I(B).*

*Amendment*

1. With respect to contracts concluded off-premises, the information provided for in Article 5 shall be given *to the consumer in the contract document or on another durable medium, in so far as this appears appropriate in view of the nature of the contract*; it shall be drafted in plain, intelligible language and be legible.

*Justification*

This amendment replaces the previous Amendment 91.

**Amendment 738**

Frank Engel

Proposal for a directive

Article 10 – paragraph 1

*Text proposed by the Commission*

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. *The order form shall include the standard withdrawal form set out in Annex I(B).*

*Amendment*

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. *The order form shall include the standardised European withdrawal form*
1. With respect to contracts concluded off-premises, the information provided for in Article 9 shall be given in the order form. It shall be drafted in plain, intelligible language and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

Information must be provided to the consumer in a timely fashion if the information requirements are to fulfil their purpose. In addition, entirely oral contracts, such as those with craftsmen, should continue to be possible. Against the background of the system of cautions practised in some Member States, traders should be granted fictitious legality when applying the model instructions on withdrawal.
Text proposed by the Commission

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

Amendment

1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language, be legible and in the same font size. The order form shall include the standard withdrawal form set out in Annex I(B).

(This amendment applies throughout the text - instead of "legible" stands "legible and in the same font size".)

Amendment 741
Rafał Trzaskowski, Róża Gräfin von Thun und Hohenstein, Małgorzata Handzlik

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission
1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form in plain and intelligible language and be legible. The order form shall include the standard withdrawal form set out in Annex I(B).

Amendment
1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in good time before the conclusion of the contract in plain and intelligible language and be legible.

Or.en

Amendment 742
Kurt Lechner

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission
1. With respect to off-premises contracts, the information provided for in Article 9 shall be given in the order form. It shall be drafted in plain, intelligible language and be legible. The order form shall include

Amendment
1. With respect to off-premises contracts, the information provided for in Article 9 shall be provided in text form at the consumer’s request. It shall be drafted in
the standard withdrawal form set out in Annex I(B).

plain, intelligible language and be legible.

Amendment 743
Robert Rochefort

Proposal for a directive
Article 10 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Member States may maintain or adopt in their national law stricter provisions than those set out in this article with a view to guaranteeing a higher level of consumer protection.

Justification

To clarify that minimum harmonisation applies in the case of Article 10 of this directive.

Amendment 744
Cornelis de Jong

Proposal for a directive
Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Sending the good back within the withdrawal period should in itself be regarded as a "clearly worded statement".

Justification

Amendment 745
Damien Abad

Proposal for a directive
Article 10 – paragraph 2
2. An off-premises contract shall only be valid if the consumer signs an order form and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

**Justification**

Dropping the requirement for an order form is acceptable provided the consumer is able to choose the durable medium on which the information is set out and at any event has the option of requesting a paper document.

Amendment 746
Kurt Lechner

Proposal for a directive
Article 10 – paragraph 2

2. An off-premises contract shall only be valid if the consumer signs an order form and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

Amendment 747
Emilie Turunen

Proposal for a directive
Article 10 – paragraph 2

2. The order form shall be provided to the consumer prior to the conclusion of the contract. In cases where the order form is not on paper, the consumer receives a copy of the order form on another durable
An off-premises contract shall only be valid if the consumer signs the order form.

Amendment 748
Robert Rochefort
Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. An off-premises contract shall only be valid if the consumer signs an order form and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

Amendment

2. An off-premises contract shall be valid only if the consumer signs the order form.

Justification

The only means of ensuring that the consumer has given his express consent at the conclusion of an off-premises contract is to insist on his signature on the order form.

Amendment 749
Evelyne Gebhardt
Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. An off-premises contract shall only be valid if the consumer signs an order form and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

Amendment

2. An off-premises contract shall only be valid if the consumer signs an order form which shall be provided prior to the conclusion of the contract. In cases where the order form is not on paper, the consumer receives a copy of the order form on another durable medium.
Amendment 750
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission
2. An off-premises contract shall only be valid if the consumer signs an order form and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

Amendment
2. An off-premises contract shall only be valid if the consumer signs an order form received by him prior to completion of the contract and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

Or.el

Amendment 751
Catherine Soullie, Constance Le Grip, Amalia Sartori

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission
2. An off-premises contract shall only be valid if the consumer signs an order form and in cases where the order form is not on paper, receives a copy of the order form on another durable medium.

Amendment
2. An off-premises contract shall only be valid if the consumer signs an order form and receives a copy of this order form on the durable medium of his choice.

Or.en

Amendment 752
Rafał Trzaskowski, Róża Gräfin von Thun und Hohenstein, Sandra Kalniete, Małgorzata Handzlik

Proposal for a directive
Article 10 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

If a consumer wishes the provision of
service to begin during the withdrawal period, he shall make such a request to the trader on a durable medium.

Or.en

Amendment 753
Malcolm Harbour

Proposal for a directive
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

2a. Where a consumer wishes the provision of services (including where goods are provided as part of the transaction), to begin during the withdrawal period provided for in Article 12(1a), the trader shall require that the consumer makes such a request on a durable medium.

Or.en

Amendment 754
Emilie Turunen

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

deleted

Or.en

Amendment 755
Evelyne Gebhardt

Proposal for a directive
Article 10 – paragraph 3
Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission
3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

Amendment
deleted

Or.en

Amendment 756
Robert Rochefort

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission
3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

Amendment
deleted

Or.fr

Amendment 757
Cristian Silviu Bușoi, Edvard Kožušník

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission
3. Member States shall not impose any pre-contractual formal requirements other than those provided for in paragraphs 1 and 2.

Amendment
3. Member States shall not impose any pre-contractual formal requirements other than those provided for in paragraphs 1 and 2.

Or.en

Justification

Articles 10 and 11 concern in contrahendo pre-contractual obligations. The amendments aim at clarifying this fact, thus avoiding misunderstandings with regard to Member States’ general provisions of contract law relating to the conclusion of a contract, which are not covered by this directive.
Amendment 758
Othmar Karas
Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

Amendment

3. Member States shall not impose any formal pre-contractual requirements other than those provided for in paragraphs 1 and 2.

Or. de

Justification

Articles 10 and 11 cover pre-contractual obligations. The amendments make this clear, thus obviating misunderstandings regarding rules on the conclusion of contracts not covered by the directive.

Amendment 759
Damien Abad
Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

Amendment

3. Member States shall not impose any formal requirements other than those provided for in paragraph 1.

Or.fr

Justification

Follows on from the deletion of paragraph 2.

Amendment 760
Andreas Schwab, Róża Gräfin von Thun und Hohenstein, Sandra Kalniete, Lara Comi
Proposal for a directive
Article 10 – paragraph 3
3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

3. Member States shall not impose any further formal requirements for the fulfilment of the information obligations referred to in paragraph 5(1).

Or. de

Justification

This amendment replaces the former Amendment 93.

Amendment 761
Kurt Lechner

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 and 2.

Amendment

3. Member States shall not impose any formal pre-contractual requirements other than those provided for in paragraph 1.

Or. de

Amendment 762
Małgorzata Handzlik, Rafał Trzaskowski

Proposal for a directive
Article 10 – paragraph 3 a (new)

Text proposed by the Commission

3a. The requirements of Article 10 are considered fulfilled in repeat sales transactions between the same trader and consumer using either distance or off-premises contracts, provided the consumer has had the opportunity in person to see or have demonstrated the goods or services that are the subject of the transaction, and provided that the requirements of Article 10 have been
observed with respect to a previous transaction.

Justification

Repeat transactions in direct selling (off-premises contracts) should remain subject to the rules applicable for off-premises contracts. This amendment ensures the seamless application of one set of law for both direct sellers and their customers. A right of withdrawal remained guaranteed. Exempting repeat transaction from information provisions should insure that consumers receive sufficient information concerning their rights, while direct sellers are relieved of costly administrative burden. Full level of harmonization.

Amendment 763
Matteo Salvini

Proposal for a directive
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

With respect to subsequent sales contracts (both distance and off-premises contracts) concluded between the same trader and consumer, the requirements set out in Article 10 shall be regarded as having been fulfilled where the consumer has had an opportunity to see, or to have demonstrated to him, the goods or services which are the subject matter of the transaction or where the formal requirements laid down in Article 10 were complied with during a previous transaction.

Or.it

Amendment 764
Tiziano Motti

Proposal for a directive
Article 11 a (new)
Text proposed by the Commission

Amendment

Article 11a

Provisions relating to off-premises and distance contracts

With respect to sales contracts concluded after an initial contract, either on a distance or an off-premises basis, between the same trader and consumer, the requirements set out in Article 10 shall be regarded as having been fulfilled where the consumer has had an opportunity personally to see, or to have demonstrated to him, the goods or services which are the subject matter of the transaction or where the formal requirements laid down in Article 10 were complied with during a previous transaction.

Or.it

Justification

Le transazioni ripetute nella vendita diretta (contratto negoziato fuori dei locali commerciali) dovrebbero essere soggette alle norme applicabili ai contratti negoziati fuori dei locali commerciali. Ferma restando la garanzia di recesso, quest’emendamento assicurerebbe l’applicazione di un unico insieme di disposizioni sia ai venditori diretti che ai loro clienti. Esentare le transazioni ripetute dall’indicare tutte le informazioni obbligatorie dovrebbe, inoltre, garantire ai consumatori di ricevere sufficienti informazioni sui propri diritti, liberando di fatto gli Incaricati alle Vendite da formalità gravose e da costi non necessari.

Amendment 765
Cristian Silviu Buşoim, Edvard Kožušník

Proposal for a directive
Article 11 – title

Text proposed by the Commission

Amendment

Formal requirements for distance contracts

Pre-contractual formal requirements for distance contracts

Or.en
**Justification**

*Articles 10 and 11 concern in contrahendo pre-contractual obligations. The amendments aim at clarifying this fact, thus avoiding misunderstandings with regard to Member States’ general provisions of contract law relating to the conclusion of a contract, which are not covered by this directive.*

### Amendment 766
**Konstantinos Poupakis, Sylvana Rapti**

**Proposal for a directive**  
**Article 11 – title**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal requirements for distance contracts</td>
<td>Formal <strong>preliminary contract</strong> requirements for distance contracts</td>
</tr>
</tbody>
</table>

### Amendment 767
**Kurt Lechner**

**Proposal for a directive**  
**Article 11 – title**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal requirements for distance contracts</td>
<td>Formal <strong>pre-contractual</strong> requirements for distance contracts</td>
</tr>
</tbody>
</table>

### Amendment 768
**Emilie Turunen**

**Proposal for a directive**  
**Article 11 – paragraph 1**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. With respect to distance contracts, the information provided for in <em>Article 9(a)</em> shall be given or made available to the</td>
<td>1. With respect to distance contracts, the information provided for in <em>Articles 5, 7 and 9</em> shall be given or made available to</td>
</tr>
</tbody>
</table>
consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment 769
Liem Hoang Ngoc

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer in sufficient time to enable him to acquaint himself with it, and at any event prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer in sufficient time to enable him to acquaint himself with it, and at any event prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.
shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

be given or made available to the consumer in good time and at any event before the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment 771
Evelyne Gebhardt

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Articles 7 and 9 shall be given or made available to the consumer prior to the contractual statement, in plain and intelligible language, in a way appropriate to the means of distance communication used. The information shall be easily, directly and permanently accessible.

Amendment 772
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer in time for the conclusion of the contract, before the consumer is bound by the distance contract or offer. The information shall be provided in plain and intelligible language, including the language of the consumer, and be legible
and clear, in a way appropriate to the means of communication used.

Amendment 773
Damien Abad, Philippe Juvin
Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 5 shall be given or made available to the consumer in good time and at any event before the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Or.fr

Justification

To tie in with rapporteur’s amendments 70 and 95.

Amendment 774
Andreas Schwab
Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 5 shall be given or made available to the consumer in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Or. de
Justification

This amendment replaces Amendment 95.

Amendment 775
Rafał Trzaskowski, Róża Gräfin von Thun und Hohenstein, Małgorzata Handzlik

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer in good time before the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Or.en

Amendment 776
Emma McClarkin

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 5 shall be given or made available to the consumer prior to the conclusion of the contract, in a way appropriate to the means of distance communication used. If the information is provided in writing, it must be in plain and understandable language and be legible

Or.en
Amendment 777
Jürgen Creutzmann
Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer prior to the conclusion of the contract, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Amendment

1. With respect to distance contracts, the information provided for in Article 9(a) shall be given or made available to the consumer in good time before the consumer is bound by any distance contract or corresponding offer, in plain and intelligible language and be legible, in a way appropriate to the means of distance communication used.

Or. de

Amendment 778
Emilie Turunen
Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

1. In case the contract places the consumer under the obligation to make a payment, the trader shall display this obligation clearly and prominently to the consumer, prior to the consumers’ contractual statement. The order will be binding only if the consumer has confirmed to be aware of this obligation.

Amendment

1 a. In case the contract places the consumer under the obligation to make a payment, the trader shall display this obligation clearly and prominently to the consumer, prior to the consumers’ contractual statement. The order will be binding only if the consumer has confirmed to be aware of this obligation.

Or.en

Justification

The payment obligation should only be valid when the consumer has confirmed that he/she is aware of this aspect.
Amendment 779  
Philippe Juvin, Damien Abad, Constance Le Grip  
Proposal for a directive  
Article 11 – paragraph 1 a (new)  

Text proposed by the Commission

1a. Where the subject of the contract and the urgency of its performance render the application of paragraph 1 wholly impracticable, the information referred to in Article 5 may be given verbally prior to the conclusion of the contract and confirmed without delay in accordance with the above-mentioned paragraph.

Or.fr

Justification

In some cases (supply of water or heating oil, etc.) the contract is concluded by phone and needs to be performed immediately by reason of the very nature of the service (connection to the water supply, heating oil delivery, etc.). The consumer cannot wait to receive the information before concluding the contract. However, the information supplied must be confirmed in accordance with Article 11(1) as soon as possible.

Amendment 780  
Konstantinos Poupakis, Sylvana Rapti  
Proposal for a directive  
Article 11 – paragraph 1 a (new)  

Text proposed by the Commission

1a. Online contracts requiring the consumer to make payment shall only be binding on the consumer following express confirmation of the information provided for under Article 5(1)(c).

Or.el

Amendment 781  
Andreas Schwab, Hans-Peter Mayer, Wim van de Camp, Konstantinos Poupakis,
Proposal for a directive

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

1a. If a distance contract for services concluded on the internet places the consumer under an obligation to make a payment, the consumer shall only be bound by the contract if the trader has

(a) made the consumer aware in a clear and highly visible manner of the total price, including all related price components, and

(b) designed his website in such a way that a binding order cannot be placed until the consumer has confirmed that he has read and understood the statement required under letter (a).

Or. de

Amendment 782
Robert Rochefort

Proposal for a directive
Article 11 – paragraph - 1 (new)

Text proposed by the Commission

-1. Member States may maintain or adopt in their national law stricter provisions than those set out in this article with a view to guaranteeing a higher level of consumer protection.

Or.fr

Amendment 783
Jürgen Creutzmann
1a. If a distance contract for services concluded on the internet places the consumer under an obligation to make a payment, the consumer shall only be bound by the contract if the trader has
(a) made the consumer aware in a clear and highly visible manner of the total price, including all related price components, and
(b) designed his website in such a way that a binding order cannot be placed until the consumer has confirmed that he has read and understood the statement required under letter (a).

Or. de

Justification
This provision is intended to increase protection against ‘cost traps’ on the internet, whereby unscrupulous vendors mislead consumers by apparently free offers, for example of recipes or horoscopes, into concluding contracts giving rise to payment.

Amendment 784
Emilie Turunen

Proposal for a directive
Article 11 – paragraph 2

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer.

2. If, in conformity with the national law applicable, the trader makes a telephone call to the consumer with a view to concluding a distance contract by telephone, the trader shall disclose his identity and, where applicable, the identity of the person on whose behalf he makes the call, and the commercial purpose of the call at the beginning of the conversation with the consumer.
Situations where the trader intends to conclude a contract by phone should be tightened, because the consumer is often not aware of being actually concluding a contract.

Amendment 785
Werner Langen, Kurt Lechner

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer.

Amendment

2. If the trader contacts the consumer via a long-distance communication medium with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of each conversation with the consumer.

Justification

In the interests of wording this directive in a way which is neutral and will cover future needs, the reference should not only be to telephone calls. Otherwise clarification would be needed, for example, as to whether a telephone call includes an SMS message or a message on a voicemail device.

Amendment 786
Robert Rochefort

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation.

Amendment

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract:
with the consumer.

- he shall disclose his identity and where appropriate the identity of the person on whose behalf he is making the call - and the commercial purpose of the call at the beginning of the telephone conversation;

- he shall send the consumer a confirmation of his offer, in writing or on a durable medium, including the information referred to in Article 5;

- the consumer shall not be bound by the contract unless or until he has signed it.

Or.fr

Justification

Many consumers have found themselves bound by a contract following a phone call by a trader in spite of not having given their express or informed consent, after providing certain information verbally, rapidly and at a time when they may not have been paying full attention. To avoid this kind of situation, additional requirements should be adopted requiring the trader to confirm his offer in writing or on a durable medium, and that the consumer is not bound until he has signed the contract.

Amendment 787
Evelyne Gebhardt

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer.

Amendment

2. If the trader contacts the consumer with a view to concluding a distance contract by telephone, the trader shall disclose at the beginning of the conversation with the consumer his identity and where applicable the identity of the person on whose behalf he makes the call and the commercial purpose of the call.
Amendment 788
Liem Hoang Ngoc

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer.

Amendment

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer. The consumer’s agreement over the telephone shall under no circumstances be deemed to commit the consumer in a binding manner. The trader shall send the consumer a confirmation of his offer in writing or on a durable medium of the consumer's choice. The consumer shall not be bound by the contract unless or until he has signed it.

Or.fr

Justification

Many consumers have found themselves bound by a contract following a phone call from a trader during which they have verbally accepted the offer the latter has proposed. To avoid the abuses to which such practices may lend themselves, it is essential that the trader should send the consumer a written confirmation of the offer in question and that the consumer should not be bound by the contract until he has signed it.

Amendment 789
Damien Abad, Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation

Amendment

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract by telephone, he shall disclose his identity - and, where applicable the identity of the person on
with the consumer.

The trader shall send the consumer a confirmation of his offer in writing or on a durable medium. The consumer shall not be bound by the contract unless or until he has signed it.

Or.fr

**Justification**

Many consumers have found themselves bound by a contract following a phone call from a trader, even though they have not given their express consent. To avoid this kind of situation, it is necessary to ensure that the trader is additionally required to confirm his offer in writing and that the consumer is not bound by the contract until he has signed it.

**Amendment 790**
Catherine Soullie, Constance Le Grip, Amalia Sartori

Proposal for a directive
Article 11 – paragraph 2

*Text proposed by the Commission*

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer.

*Amendment*

2. If the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall disclose his identity and the commercial purpose of the call at the beginning of the conversation with the consumer. The trader shall send to the consumer a confirmation of the offer on a durable medium. The consumer is bound to the contract only by his signature.

Or.en

**Amendment 791**
Evelyne Gebhardt

Proposal for a directive
Article 11 – paragraph 2 a (new)
2a. In case the contract places the consumer under the obligation to make a payment, the trader shall display this obligation clearly and prominently to the consumer, prior to the consumers' contractual statement. The order will be binding only if the consumer has confirmed to be aware of this obligation.

Amendment 792
Frank Engel

Proposal for a directive
Article 11 – paragraph 2 a (new)

Text proposed by the Commission

2a. Electronic trading sites shall be required to indicate clearly and legibly on their homepage whether there are restrictions of any kind – including on means of payment – regarding delivery to certain countries. Consumers shall be provided, on request, with the reasons for such restrictions.

Amendment 793
Emilie Turunen

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the
product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

**final** price, the duration of the contract and, if the contract is open-ended, the conditions for terminating the contract referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1 and the consumer shall be informed thereof on a durable medium prior to the conclusion of such a contract.

Or.en

**Amendment 794**
Liem Hoang Ngoc

Proposal for a directive
Article 11 – paragraph 3

*Text proposed by the Commission*

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

**Amendment**

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information referred to in Articles 5(1)(a), (b), (ba), (c) and (g) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1. The consumer shall be informed of the medium in question before the conclusion of the contract.

Or.fr

*(See amendment by Mr Hoang Ngoc creating a new Article 5(1) (b) a).*
Amendment 795
Robert Rochefort

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least, on that particular medium prior to the conclusion of such a contract, the information regarding the main characteristics of the product or service, the total price, the duration of the contract and, if the contract is open-ended, the conditions for terminating the contract referred to in Article 5(1)(a), (c) and (g). The other information referred to in Article 5 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Or.fr

Justification

There is a need to extend the list of information which must be supplied, even where there are space and time constraints, if only concerning the duration of the contract and, if the contract is open-ended, the conditions for terminating the contract, which is information essential to enable the consumer to make an informed choice.

Amendment 796
Evelyne Gebhardt

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide the information regarding the main characteristics of the product, the final price, the duration of the contract
Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

and if the contract is open-ended, the conditions for terminating the contract referred to in Articles 5(1)(a) and (c) on that particular medium in time and prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1 and the consumer shall be informed thereof on a durable medium prior to the conclusion of such a contract.

Amendment 797
Philippe Juvin

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product or services, the total price, the duration of the contract and, in the case of automatically renewable contracts, the conditions for terminating the contract, as provided for in Articles 5(1)(a), (c) and (g) on that particular medium prior to the conclusion of such a contract. The other information referred to in Article 5 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1. The consumer shall be informed of the medium in question before the conclusion of the contract.

Or.fr

Justification

The purpose of the amendment is to supplement the Commission text, specifying the other
types of information which the trader must provide to the consumer when the medium used to conclude the contract allows limited space or time to display the information, in particular the duration of the contract and the conditions for terminating an automatically renewable contract.

Amendment 798
Wim van de Camp
Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide the information regarding the main characteristics of the goods or services, the total price, the duration of the contract and, if the contract is open-ended, the conditions for terminating the contract, referred to in Articles 5(1)(a), (c) and (g) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1, and the consumer shall be informed hereof on that particular medium prior to the conclusion of such a contract.

Member States may not maintain or introduce, in their national law, provisions diverging from those laid down in Article 11, including more or less stringent provisions intended to ensure a different level of consumer protection.

Or.en

Amendment 799
Damien Abad
Proposal for a directive
Article 11 – paragraph 3

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EN
3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product or services, the total price, the duration of the contract and, in the case of open-ended contracts, the conditions for terminating the contract, as provided for in Articles 5(1)(a), (c) and (g) on that particular medium prior to the conclusion of such a contract. The other information referred to in Article 5 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1. The consumer shall be informed of the medium in question before the conclusion of the contract.

Or.fr

Justification

This proposal supplements the wording proposed by the rapporteur, adding minimum information concerning the duration of the contract and the conditions for terminating the contract in the case of open-ended contracts. These are two pieces of information which the consumer needs to be immediately aware of in order to make an informed choice.

Amendment 800
Róża Gräfin von Thun und Hohenstein, Rafal Trzaskowski

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a), (b), (c), (e) and (g) on that
medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

particular medium prior to the conclusion of such a contract. The other information referred to in Article 5 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Or.en

Amendment 801
Emma McClarkin

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Amendment

3. If the contract is concluded via telephone or through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Or.en

Justification

The information requirements for distance and off-premises contracts are very extensive. Article 11, paragraph 3 foresees that the information requirements can be modified if the contract is concluded through a medium which allows limited space or time to display the information. Regarding the conclusion of a contract via telephone it is also neither feasible nor appropriate to provide all information orally. In this context, providing information about the main characteristics of the contract in conjunction with reference to another appropriate source of information is a solution that takes the information needs of consumers into account. At the same time it does not jeopardize the conclusion of contract via telephone with excessive formal requirements.
Amendment 802
Toine Manders
Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide at least the information regarding the main characteristics of the product and the total price referred to in Articles 5(1)(a) and (c) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1.

Amendment

3. If the contract is concluded through a medium which allows limited space or time to display the information, the trader shall provide the information regarding the main characteristics of the product and the total price, the duration of the contract and, if the contract is open-ended, the conditions and the way how to terminating the contract, referred to in Articles 5(1)(a), (c) and (g) on that particular medium prior to the conclusion of such a contract. The other information referred to in Articles 5 and 7 shall be provided by the trader to the consumer in a clear, understandable and legible way in accordance with paragraph 1. The consumer shall be informed on that particular medium prior to the conclusion of the contract or when the offer for such a contract is being made.

Or.en

Amendment 803
Emilie Turunen
Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. The consumer shall receive confirmation of all the information referred to in Article 9(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun, unless the

Amendment

deleted
information has already been given to the consumer prior to the conclusion of any distance contract on a durable medium.

Or.en

Amendment 804
Evelyne Gebhardt

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. The consumer shall receive confirmation of all the information referred to in Article 9(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun, unless the information has already been given to the consumer prior to the conclusion of any distance contract on a durable medium.

Or.en

Amendment 805
Robert Rochefort

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. The consumer shall receive deleted
confirmation of all the information referred to in Article 9(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun, unless the information has already been given to the consumer prior to the conclusion of any
distance contract on a durable medium.

Amendment 806
Liem Hoang Ngoc
Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission
4. The consumer shall receive confirmation of all the information referred to in Article 9(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun, unless the information has already been given to the consumer prior to the conclusion of any distance contract on a durable medium.

Amendment
4. The consumer shall receive confirmation of all the information referred to in Article 9(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun.

Amendment 807
Catherine Soullie, Constance Le Grip, Amalia Sartori
Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission
4. The consumer shall receive confirmation of all the information referred to in Article 9(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun, unless the information has already been given to the consumer prior to the conclusion of any distance contract on a durable medium.

Amendment
4. The consumer shall receive confirmation of all the information referred to in Article 5(a) to (f), on a durable medium, in reasonable time after the conclusion of any distance contract, and at the latest at the time of the delivery of the goods or when the performance of the service has begun, unless the information has already been given to the consumer prior to the conclusion of any distance contract on a durable medium.
Amendment 808
Rafał Trzaskowski, Róża Gräfin von Thun und Hohenstein, Małgorzata Handzlik,
Sandra Kalniete

Proposal for a directive
Article 11 – paragraph 4 a (new)

Text proposed by the Commission

4a. If a consumer wishes the provision of service to begin during the withdrawal period, he shall make such a request to the trader on a durable medium.

Amendment

Or.en

Amendment 809
Robert Rochefort

Proposal for a directive
Article 11 – paragraph 4 a (new)

Text proposed by the Commission

4a. In order for the distance contract to be validly concluded, the consumer must have had the opportunity to verify the full details of his order and its total price and to correct any errors before confirming the order and thereby validly expressing his acceptance.

Amendment

Or.fr

Justification

Consumers wishing to enter into a contract on the Internet must have the opportunity to see a summary of their order before concluding the contract, and must only be committed after confirming this summarised order.
Amendment 810
Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 11 – paragraph 4 a (new)

Text proposed by the Commission

4a. Within the context of an online contract, in order for the distance contract to be validly concluded, the consumer must have had the opportunity to verify the details of his order and its total price and to correct any errors before confirming the order and thereby expressing his acceptance.

Justification

The purpose of the amendment is to incorporate the 'double click' principle in order to enable the consumer to obtain a summary of his order when he enters into a contract on the Internet, so that he can verify his order and correct any errors. The consumer is only committed after confirming this summary.

Amendment 811
Anja Weisgerber

Proposal for a directive
Article 11 – paragraph 4 (new)

Text proposed by the Commission

4a. A contract in electronic commerce covering provision of a good or service against payment whereby the consumer’s order is placed directly on the vendor’s website shall only become effective if the consumer has, before placing the order with the vendor, received notification of the fact that payment is involved and been given the information under Article 5 (1)(c) in a clear, typographically visible form and confirmed in a declaration separate from the order that he has read and understood this information.
Unscrupulous vendors set up their websites in such a way that consumers are misled by an apparently free offer into concluding contracts that involve payment (‘cost traps’ on the internet). The proposed ‘button solution’ is intended to counter this business method. It prevents vendors from ‘hiding’ a reference to the fact that their offer is against payment in the standard contract terms or elsewhere. In this way consumers are protected from disguised contracts.

Amendment 812
Catherine Soullie, Constance Le Grip, Amalia Sartori

Proposal for a directive
Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment
4a. The durable media referred to in paragraphs 2 and 4 shall be chosen by the consumer.

Or.en

Amendment 813
Catherine Soullie, Constance Le Grip, Amalia Sartori

Proposal for a directive
Article 11 – paragraph 4 b (new)

Text proposed by the Commission

Amendment
4b. For the contract to be valid, the consumer shall be able to check all the details of his order and the total price before giving a final approval.

Or.en

Amendment 814
Emilie Turunen

Proposal for a directive
Article 11 – paragraph 5

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5. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 to 4.

Amendment 815
Liem Hoang Ngoc
Proposal for a directive
Article 11 – paragraph 5

Amendment 816
Robert Rochefort
Proposal for a directive
Article 11 – paragraph 5

Amendment 817
Evelyne Gebhardt
Proposal for a directive
Article 11 – paragraph 5
5. Member States shall not impose any
formal requirements other than those
provided for in paragraphs 1 to 4.

deleted

Amendment 818
Catherine Stihler

Proposal for a directive
Article 11 – paragraph 5

Text proposed by the Commission
Amendment

5. Member States shall not impose any
formal requirements other than those
provided for in paragraphs 1 to 4.

deleted

Or.en

Justification

Member states should not be prevented from imposing further requirements (para 5 therefore is deleted). In the UK, this could have a significant negative impact on the regulators (particularly the Competition Commission) in proposing information remedies to address identified consumer detriment

Amendment 819
Cristian Silviu Buşoi, Edvard Kožušník

Proposal for a directive
Article 11 – paragraph 5

Text proposed by the Commission
Amendment

5. Member States shall not impose any
formal requirements other than those
provided for in paragraphs 1 to 4.

5. Member States shall not impose any pre-contractual formal requirements other than those provided for in paragraphs 1 to 4.

Or.en
Justification

Articles 10 and 11 concern in contrahendo pre-contractual obligations. The amendments aim at clarifying this fact, thus avoiding misunderstandings with regard to Member States’ general provisions of contract law relating to the conclusion of a contract, which are not covered by this directive.

Amendment 820
Othmar Karas

Proposal for a directive
Article 11 – paragraph 5

Text proposed by the Commission
5. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 to 4.

Amendment
5. Member States shall not impose any pre-contractual formal requirements other than those provided for in paragraphs 1 to 4.

Justification

Articles 10 and 11 deal with pre-contractual obligations. The amendments make this clear, thus obviating misunderstandings regarding rules on the conclusion of contracts not covered by the directive.

Amendment 821
Kurt Lechner

Proposal for a directive
Article 11 – paragraph 5

Text proposed by the Commission
5. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 to 4.

Amendment
5. Member States shall not impose any pre-contractual formal requirements other than those provided for in paragraphs 1 to 4.

Or. de
Amendment 822
Andreas Schwab, Sandra Kalniete, Lara Comi

Proposal for a directive
Article 11 – paragraph 5

Text proposed by the Commission

5. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 to 4.

Amendment

5. Member States shall not impose any further formal requirements for the fulfilment of the information obligations referred to in paragraph 5(1).

Or. de

Amendment 823
Anja Weisgerber

Proposal for a directive
Article 11 – paragraph 5

Text proposed by the Commission

5. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 to 4.

Amendment

5. Member States shall not impose any formal requirements other than those provided for in paragraphs 1 to 4. The Member States’ rules on unfair commercial practices, particularly those implementing Article 5 in combination with Appendix 1, No 26 of Directive 26/2005/EC of the European Parliament and of the Council, shall be unaffected.

Or. de

Justification

It is desirable to clarify that the Member States’ rules on unfair commercial practices, particularly those implementing Article 5 in combination with Appendix 1, No 26 of Directive 26/2005/EC of the European Parliament and of the Council, are unaffected. This ensures that the measures taken by the Member States to combat cold calling can be maintained.
Proposal for a directive
Article 12 – paragraph 1

**Text proposed by the Commission**

1. The consumer shall have a period of fourteen days to withdraw from a distance or off-premises contract, without giving any reason.

**Amendment**

1. The consumer shall have a period of fourteen days from the day of the conclusion of the contract to withdraw from an off-premises contract or a distance contract for the provision of services, without giving any reason.

**Justification**

The withdrawal period must be subject to maximum harmonisation, whilst taking account of certain specific situations (see amendment to Article 12(2a))

Proposal for a directive
Article 12 – paragraph 1

**Text proposed by the Commission**

1. The consumer shall have a period of fourteen days to withdraw from a distance or off-premises contract, without giving any reason.

**Amendment**

1. Unless otherwise provided by this Directive, the consumer shall have a withdrawal period which shall expire after fourteen days from the day of the conclusion of the contract.

**Justification**

The withdrawal period must be subject to maximum harmonisation, whilst taking account of certain specific situations (see amendment to Article 12(2a))
Text proposed by the Commission

1. The consumer shall have a period of **fourteen** days to withdraw from a distance or off-premises contract, without giving any reason.

Amendment

1. The consumer shall have a period of **thirty** days to withdraw from a distance or off-premises contract, without giving any reason.

Or.el

Amendment 827

Andreas Schwab, Wim van de Camp, Róża Gräfin von Thun und Hohenstein, Rafal Trzaskowski, Konstantinos Poupakis, Małgorzata Handzlik, Anna Maria Corazza Bildt

Proposal for a directive

Article 12 – paragraph 1 a (new)

Text proposed by the Commission

1a. Save as otherwise provided, the withdrawal period shall begin from the day of the conclusion of the contract or on the day on which the consumer receives a copy of the signed contract on a durable medium, if this is not the day of conclusion of the contract.

Amendment

1a. In case of a sales contract, the withdrawal period shall begin from the day of delivery of the goods, where the requirements laid down in Article 9 have been met. If the goods are delivered separately, the withdrawal period shall start when each individual good is delivered. When a good is delivered in

Or.de

Amendment 828

Toine Manders

Proposal for a directive

Article 12 – paragraph 1 a (new)

Text proposed by the Commission

1a. In case of a sales contract, the withdrawal period shall begin from the day of delivery of the goods, where the requirements laid down in Article 9 have been met. If the goods are delivered separately, the withdrawal period shall start when each individual good is delivered. When a good is delivered in
parcels or pieces, the withdrawal period should start when the last parcel or piece is delivered.

Or.en

Amendment 829
Toine Manders

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

Text proposed by the Commission

1b. In case of a service contract, the withdrawal period shall start from the day of the conclusion of the contract, or from the day on which the requirements laid down in Article 9 have been met, when these are met after the conclusion of the contract, unless the exception of Article 19 (1 under (a)) is applicable.

Amendment

Or.en

Amendment 830
Emilie Turunen

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. In the case of an off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

Amendment

deleted

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each
of the goods ordered.

In the case of a distance contract for the provision of services, the withdrawal period shall begin from the day of the conclusion of the contract.

Amendment 831
Evelyne Gebhardt

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. In the case of an off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each of the goods ordered.

In the case of a distance contract for the provision of services, the withdrawal period shall begin from the day of the conclusion of the contract.

Amendment 832
Catherine Stihler

Proposal for a directive
Article 12 – paragraph 2
2. In the case of an off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

Or.fr

See Mr Hoang Ngoc's amendment to Article 12(1).
Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1

2. In the case of an off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

Amendment 836
Andreas Schwab, Róża Gräfin von Thun und Hohenstein, Rafał Trzaskowski, Małgorzata Handzlik

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1

In the case of a distance or off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium of his choice.
withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

contract for the supply of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires material possession of the goods ordered.

Where goods are supplied in more than one delivery, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of the first partial shipment.

Or.de

Justification

This amendment replaces Amendment 98.

Amendment 837
Jürgen Creutzmann

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1

Text proposed by the Commission

In the case of an off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

Amendment

In the case of a distance or off-premises contract for the supply of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires material possession of the goods ordered. In the case of the supply of goods in several parts or pieces, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires material possession of the final part or final piece.

Or.de
Amendment 838
Kyriacos Triantaphyllides

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1

Text proposed by the Commission

In the case of an off-premises contract, the withdrawal period shall begin from the day when the consumer signs the order form or in cases where the order form is not on paper, when the consumer receives a copy of the order form on another durable medium.

Amendment

In the case of a distance or off-premises contract the withdrawal period shall begin from the day when the consumer or a third party other than the carrier and indicated by the consumer acquires material possession of the goods ordered. In the case of the supply of goods in several parts or pieces the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires material possession of the final part or final piece. The commencement of this period shall coincide chronologically with the moment in time when the risk is transferred to the consumer under Article 23 of this Directive.

Justification

The commencement of the withdrawal period should coincide with the moment in time when the risk is transferred to the consumer.

Amendment 839
Damien Abad, Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer

Amendment

deleted

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In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each of the goods ordered.
Amendment 842
Liem Hoang Ngoc

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each of the goods ordered.

Amendment

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer acquires the material possession of each of the goods ordered. Where the order relates to a good made up of several parts or pieces, the withdrawal period shall begin from the day on which the consumer acquires the material possession of the final part or piece.

Or.fr

Amendment 843
Tiziano Motti

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each of the goods ordered.

Amendment

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of the good concerned or the day on which the service covered by the mixed-purpose contract is provided (or made available for use) or, in the case of a long-term service, provision of that service commences (or the service is made available for use).

Or.it
Justification

Despite Parliament's proposed amendment, it is still not clear what should be done in cases where goods have been provided to consumers but must be brought into service before they can be used.

Amendment 844
Emma McClarkin

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each of the goods ordered.

Amendment

In the case of a distance contract for the sale of goods, the withdrawal period shall begin from the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires the material possession of each of the goods ordered. In case of continuing obligations the withdrawal period shall begin from the day of the first partial delivery.

Or.en

Justification

The provisions regarding the starting point of the withdrawal period pose a severe problem for contracts where there are continuing obligations (for example, where single editions such as an information collection on CD-Rom or a single delivery of a loose-leaf-collection are delivered consecutively for the duration of the subscription). In the case of continuing obligations, the consumer is already able to examine the product and to determine whether he likes to be further bound by the contract when he receives the first partial delivery. However, according to the current wording of the Commission proposal the withdrawal period for such contracts would start with the delivery of the last good. The point of reference for the start of the withdrawal period should therefore be the receipt of the first delivery.

Amendment 845
Rafał Trzaskowski, Róża Gräfin von Thun und Hohenstein, Małgorzata Handzlik

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 2 a (new)
Text proposed by the Commission

In the case of delivery of a good consisting of several parts or pieces, the withdrawal period shall be calculated from the day on which the consumer receives the last part or piece.

Amendment 846
Damien Abad, Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 3

Text proposed by the Commission

In the case of a distance contract for the provision of services, the withdrawal period shall begin from the day of the conclusion of the contract.

Amendment 847
Jürgen Creutzmann

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 3

Text proposed by the Commission

In the case of a distance contract for the provision of services, the withdrawal period shall begin from the day of the conclusion of the contract.

Save as otherwise provided, the withdrawal period shall begin from the day of the conclusion of the contract.

Justification

This general rule enhances harmonisation and clarity for both consumer and trader.
Amendment 848
Kyriacos Triantaphyllides

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 3

Text proposed by the Commission
In the case of a distance contract for the provision of services, the withdrawal period shall begin from the day of the conclusion of the contract.

Amendment
In the case of a distance or off premises contract for the provision of services, the withdrawal period shall begin from the day of reception by the consumer of a copy of the signed contract on a durable medium.

Or.el

Amendment 849
Wim van de Camp

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 3

Text proposed by the Commission
In the case of a distance contract for the provision of services, the withdrawal period shall begin from the day of the conclusion of the contract.

Amendment
In case the goods are delivered separately, the withdrawal period shall start when each individual good is delivered. When a good is delivered in lots or pieces, the withdrawal period should start when the last lot of piece is delivered.

Or.en

Amendment 850
Catherine Stihler

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission
2a. The withdrawal period ends fourteen days after the latest of the following times:

Amendment
a) the time of conclusion of the contract;
b) the time when the entitled party receives from the other party adequate information on the right of withdrawal; or
c) if the subject-matter of the contract is the delivery of goods, the time when the goods are received.
d) if the subject-matter of the contract is a mixed-contract (both goods and services) the time when the latest event takes place (delivery of the good or provision of the service starts)

Justification

The ability to withdraw from a distance contract or an off-premises contract is a fundamental consumer right. It is necessary to enable consumers to withdraw from a contract once they have been given the opportunity to sample a good (in the same way as they would be able to do on the high street) or from a contract they have been rushed into (for example, by an aggressive salesman). It is therefore particularly important that this right is set out fairly, clearly, simply and in a way that ensures it will be effective. The withdrawal period must be linked to the receipt by the consumer of information from the trader about his right to withdraw. Otherwise consumers could lose their right to withdraw before they knew such a right existed.

Amendment 851
Emilie Turunen

Proposal for a directive
Article 12 – paragraph 2 a (new)

_text proposed by the Commission

2a. The withdrawal period ends fourteen days after the latest of the following times:

a) the time of conclusion of the contract;
b) the time when the entitled party receives from the other party adequate information on the right to withdrawal;
c) if the subject-matter of the contract is the delivery of goods, the time when the goods are received.

Amendment
d) if the subject-matter of the contract is a mixed-contract (both goods and services) the time when the latest event takes place (delivery of the good or provision of the service)

e) the time when the consumer receives the contract

Justification

The starting point of the cooling-off period should be linked with the trader's information obligations.

Amendment 852
Evelyne Gebhardt

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

2a. The withdrawal period ends fourteen days at latest after:

a) the time of conclusion of the contract;

b) the time when the entitled party receives from the other party adequate information on the right to withdrawal; or

c) if the subject-matter of the contract is the delivery of goods, the time when the goods are received.

d) if the subject-matter of the contract is a mixed-contract (both goods and services), the time when the latest event takes place (delivery of the good or provision of the service).
Amendment 853
Damien Abad, Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

2a. However, as regards the distance sale of goods, the withdrawal period may not expire before 14 days from the day when the consumer takes delivery of the goods.

Where an order made by the consumer relates to different goods which are delivered separately, the withdrawal period shall begin from when each good is delivered.

Where the order relates to a batch made up of different goods or services, the withdrawal period shall begin from when the consumer has taken delivery of the final element making up the batch.

Justification

Connected to the amendment to Article 12(1). This wording aims to simplify the rapporteur’s proposed amendments 98, 99, 100, 101 and 103. It introduces a basic principle (the period begins from when the contract is concluded), an exception (for distance sales, the period begins from the time of delivery) and two clarifications of specific situations.

Amendment 854
Robert Rochefort

Proposal for a directive
Article 12 – paragraph 3 a (new)

Text proposed by the Commission

3a. In the case of distance contracts, the Member States shall not prohibit the parties from performing their obligations as laid down in this Directive during the withdrawal period. In the case of off-premises contracts, this Article shall
be without prejudice to any rule of national law establishing, within the withdrawal period, a period of time during which the performance of the contract may not begin.

Or.fr

Justification

Pour les contrats "hors établissement", pour lesquels les consommateurs peuvent se trouver dans une situation particulière d'un point de vue psychologique et pour ce qui est de comparer effectivement les articles et les prix, certains États membres ont prévu des dispositions spécifiques pour protéger des consommateurs, comme par exemple la possibilité de conserver, à l'intérieur du délai de rétractation, une période pendant laquelle la fourniture du bien ou du service ne peut intervenir et le paiement ne peut s'effectuer. Cette règle, posée ici pour les contrats "hors établissement", est identique à celle qui a été prévue à l'article 14.7 de la directive sur le crédit à la consommation. Pour les contrats à distance, maintien du texte de la proposition de la Commission.

Amendment 855
Emilie Turunen

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission  Amendment

4. The Member States shall not prohibit the parties from performing their obligations under the contract during the withdrawal period.

deleted

Or.en

Amendment 856
Liem Hoang Ngoc

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission  Amendment

4. The Member States shall not prohibit the parties from performing their

deleted
obligations under the contract during the withdrawal period.

Justification

In certain cases, the possibility for the trader to deliver goods before the end of the withdrawal period may make the right of withdrawal a very theoretical right. For example, a consumer who has received a very bulky item such as a sofa will probably hesitate to make use of his right of withdrawal if that means that he has to repackage and send back the item and particularly if he has to bear the costs.

Amendment 857
Robert Rochefort

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission  Amendment

4. The Member States shall not prohibit the parties from performing their obligations under the contract during the withdrawal period.

Or.fr

Amendment 858
Evelyne Gebhardt

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission  Amendment

4. The Member States shall not prohibit the parties from performing their obligations under the contract during the withdrawal period.

Or.en
Amendment 859
Catherine Stihler

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission
Amendment

4. The Member States shall not prohibit
the parties from performing their
obligations under the contract during the
withdrawal period.

Or.en

Amendment 860
Damien Abad, Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission
Amendment

4. The Member States shall not prohibit
the parties from performing their obligations
under the contract during the withdrawal period.

4. In the case of distance contracts, the
Member States may not prohibit the parties
from performing their obligations as laid
down in this Directive during the
withdrawal period. In the case of
off-premises contracts, this Article shall
be without prejudice to any rule of
national law establishing, within the
withdrawal period, a period of time during
which the performance of the contract
may not begin.

Or.fr

Justification

It is important to maintain certain provisions in Member States' law which are designed to
protect consumers who are in a weak position, for example the possibility to retain, within the
withdrawal period, a period of time during which the good or service may not be supplied
and payment may not be made. This rule laid down for off-premises contracts corresponds to
that laid down in Article 14(7) of the consumer credit directive.
Amendment 861
Emilie Turunen
Proposal for a directive
Article 12 – paragraph 4 a (new)

Text proposed by the Commission

4a. Member States can maintain national provisions prohibiting the parties from performing their obligations during the right of withdrawal.

Amendment

4a. Member States can maintain national provisions prohibiting the parties from performing their obligations during the right of withdrawal.

Or.en

Amendment 862
Jürgen Creutzmann

Proposal for a directive
Article 12 – paragraph 4 a (new)

Text proposed by the Commission

4a. Member States may not adopt or maintain rules which go beyond the provisions in this Article, including where they result in a higher or lower level of consumer protection.

Amendment

4a. Member States may not adopt or maintain rules which go beyond the provisions in this Article, including where they result in a higher or lower level of consumer protection.

Or.de

Amendment 863
Kyriacos Triantaphyllides

Proposal for a directive
Article 12 – paragraph 4 a (new)

Text proposed by the Commission

4a. Member States may, in order to ensure a higher degree of consumer protection, maintain or introduce under their national law withdrawal periods of longer duration than that specified in this Directive.

Amendment

4a. Member States may, in order to ensure a higher degree of consumer protection, maintain or introduce under their national law withdrawal periods of longer duration than that specified in this Directive.
Amendment 864
Robert Rochefort

Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal (or the fact that he does not have the right of withdrawal) in breach of Articles 5(1h), 10(1) and 11(4), the withdrawal period shall be extended by twelve months from the day referred to in Article 12.

Justification
The provision of information to the consumer concerning his right of withdrawal or the fact that he does not have the right of withdrawal is an essential right. The extension of the withdrawal period for the consumer must be sizeable, in order to be effective as a deterrent.

Amendment 865
Evelyne Gebhardt

Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 5(1h), 10(1) and 11(4), the withdrawal period shall expire one year after the time mentioned in Article 12 (2).
Amendment 866
Emilie Turunen

Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 5(1) and 10(1), the withdrawal period shall expire one year after the time specified in article 12(2).

Justification
A 3 months period for exercising the right of withdrawal if the trader has not provided the consumer with the information on that right is much too short.

Amendment 867
Philippe Juvin

Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 5(1)(e), 10(1) and 11(4), the withdrawal period shall be extended by three months from the day referred to in Article 12.

Justification
Clarification of the paragraph and adaptation to the rapporteur's numbering.
Amendment 868
Othmar Karas

Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 5(1)(e), 10(1) and 11(4), the withdrawal period shall expire whichever of the dates specified in Article 12(2) applies to the contract in question.

Justification
The scheduled start of the limitation period would prolong the period of uncertainty for far too long and lead to excessively long periods of use by the consumer in the case of both service and sales contracts. This would also lead to complex revocations, particularly in the case of services. It is desirable for the start of this period to be harmonised with the standard withdrawal period in Article 12.

Amendment 869
Andreas Schwab, Anna Maria Corazza Bildt, Róża Gräfin von Thun und Hohenstein, Rafał Trzaskowski, Konstantinos Poupakis, Lara Comi

Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 5(1)(e), 10(1) and 11(4), the withdrawal period shall expire one year from the day determined in Article 12(1a) and (2).
Justification

This amendment replaces Amendment 102.

Amendment 870
Robert Rochefort

Proposal for a directive
Article 13

Text proposed by the Commission

If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment

If the trader has not provided the consumer with the information provided for in Article 5 or in accordance with the arrangements provided for in Articles 10(1) and 11(4), the withdrawal period shall be extended by three months from the day referred to in Article 12.

Or.fr

Justification

As regards the conditions for extending the withdrawal period, if the three months proposed by the Commission in the event of information not being provided by the trader is to be adhered to, the information in question must cover all of the provisions laid down in Article 5.

Amendment 871
Emma McClarkin

Proposal for a directive
Article 13

Text proposed by the Commission

If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment

If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations. In case of continuing obligations this period shall begin from the day of the first partial delivery.
The provisions regarding the starting point of the withdrawal period pose a severe problem for contracts where there are continuing obligations (for example, where single editions such as an information collection on CD-Rom or a single delivery of a loose-leaf-collection are delivered consecutively for the duration of the subscription). In the case of continuing obligations the consumer is already able to examine the product and to determine whether he likes to be further bound by the contract when he receives the first partial delivery. However, according to the current wording of the Commission proposal the withdrawal period for such contracts would start with the delivery of the last good. The point of reference for the start of the withdrawal period should therefore be the receipt of the first delivery.

Amendment 872
Jürgen Creutzmann
Proposal for a directive
Article 13

Text proposed by the Commission
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment
If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the date determined in Article 12(1) and (2).

Member States may not adopt or maintain rules which go beyond the provisions in this Article, including where they result in a higher or lower level of consumer protection.

Justification
This formulation ensures there is a uniform start date for the withdrawal period.
### Amendment 873
#### Małgorzata Handzlik

**Proposal for a directive**
**Article 13**

<table>
<thead>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire <strong>three</strong> months after the trader has fully performed his other contractual obligations.</td>
<td>If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire <strong>six</strong> months after the trader has fully performed his other contractual obligations.</td>
</tr>
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**Justification**

*Increasing a withdrawal period to one year (as proposed by the rapporteur) seems to be too long. Full level of harmonization.*

### Amendment 874
#### Kyriacos Triantaphyllides

**Proposal for a directive**
**Article 13**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire <strong>three months after the trader has fully performed his other contractual obligations.</strong></td>
<td>If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall <strong>apply for an indefinite period from the conclusion of the contract.</strong></td>
</tr>
</tbody>
</table>

**Or.el**
Amendment 875
Catherine Stihler

Proposal for a directive
Article 13

Text proposed by the Commission

If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 9(b), 10(1) and 11(4), the withdrawal period shall expire three months after the trader has fully performed his other contractual obligations.

Amendment

If the trader has not provided the consumer with the information on the right of withdrawal in breach of Articles 5.1(e), and 10(1), the withdrawal period shall expire one year after the time specified in article 12.2.

Or.en

Justification

Under current UK rules for off-premises contracts, where information about the right to withdraw is not provided to consumers, the right to withdraw lasts indefinitely. Accordingly, placing a time limit on this right represents a significant ‘step back’ for UK consumers. That said, we appreciate the benefits of a time limit from the point of legal certainty, so are proposing a compromise of 1 year as this is consistent with the recent Timeshare Directive.

Amendment 876
Róża Gräfin von Thun und Hohenstein, Rafał Trzaskowski

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).

Amendment

Before expiry of the withdrawal period, the consumer shall inform the trader of his decision to withdraw on a durable medium. For this purpose the consumer must use the standard withdrawal form as set out in Annex I(B) or make any other clearly worded statement on a durable medium.

Member States shall not provide for any other formal requirements applicable to this model withdrawal form.
Amendment 877
Liem Hoang Ngoc

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).

Amendment

1. The consumer shall inform the trader of his decision to withdraw on a durable medium either using the standard withdrawal form as set out in Annex I(B) or in a clearly worded statement addressed to the trader.

Amendment 878
Evelyne Gebhardt

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).

Amendment

The consumer shall inform the trader of his decision to withdraw either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B). Returning the subject-matter of a contract before the expiration of the withdrawal period is considered as a notice of withdrawal;

Amendment 879
Emilie Turunen

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).

Amendment

The consumer shall inform the trader of his decision to withdraw either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B). Returning the subject-matter of a contract before the expiration of the withdrawal period is considered as a notice of withdrawal;
The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).

Or.en

Justification

The exercise of the right of withdrawal would be undermined if too strict formal requirements are required to exercise such a right.

Amendment 880
Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).

Amendment

1. The consumer shall inform the trader of his decision to withdraw on a durable medium either in a clearly worded statement addressed to the trader or using the standard withdrawal form as set out in Annex I(B).

Or.fr

Justification

It is important to stress that, if the consumer does not use the standard withdrawal form provided for in the Directive, he must inform the trader of his decision to withdraw in a clearly worded statement.
Amendment 881  
Jürgen Creutzmann  
Proposal for a directive  
Article 14 – paragraph 1 – subparagraph 1  

Text proposed by the Commission  

The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).  

Amendment  

Before expiry of the withdrawal period in accordance with Article 12, the consumer shall inform the trader of his decision to withdraw on a durable medium. For this purpose, the consumer may use the model withdrawal form as set out in Annex I(B), make any other clearly worded statement or return the goods to the trader.  

Or.de  

Justification  

It should be as simple and unbureaucratic as possible for the consumer to make use of the right of withdrawal.  

Amendment 882  
Małgorzata Handzlik  
Proposal for a directive  
Article 14 – paragraph 1 – subparagraph 1  

Text proposed by the Commission  

The consumer shall inform the trader of his decision to withdraw on a durable medium either in a statement addressed to the trader drafted in his own words or using the standard withdrawal form as set out in Annex I(B).  

Amendment  

Before the expiry of the withdrawal period the consumer shall inform the trader of his decision to withdraw. For this purpose the consumer must:  

a) either use the standard withdrawal form as set out in Annex I (B)  

b) or make any other clearly worded statement on a durable medium.  

Or.en
Justification

Full level of harmonization

Amendment 883
Evelyne Gebhardt

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall not provide for any other formal requirements applicable to this standard withdrawal form.

Amendment

deleted

Or.en

Amendment 884
Emilie Turunen

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall not provide for any other formal requirements applicable to this standard withdrawal form.

Amendment

deleted

Or.en

Amendment 885
Frank Engel

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall not provide for any other formal requirements applicable to this standard withdrawal form.

Amendment

Member States shall not provide for any other formal requirements applicable to this standardised European withdrawal form.
Amendment 886
Jürgen Creutzmann

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall not provide for any other formal requirements applicable to this standard withdrawal form.

Amendment

Member States shall not provide for any other formal requirements applicable to this.

Justification

In general, the Member States should not be allowed to impose further requirements as regards the format of the withdrawal.

Amendment 887
Małgorzata Handzlik, Rafał Trzaskowski

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Additionally, in the case of the provision of a service online, where such service provides for a means of withdrawal via that service itself, the consumer must be able to use that means.

Amendment

Justification

In the case of the provision of an online service, where such service provides for a means of withdrawal via that service itself, the consumer must be able to use that means. This is referred to in Recital 29 but not reflected in the body of the directive. Full level of harmonization.
Amendment 888
Andreas Schwab, Wim van de Camp, Sandra Kalniete, Lara Comi

Proposal for a directive
Article 14 – paragraph 1 a (new)

Text proposed by the Commission
1a. Before expiry of the withdrawal period, the consumer shall inform the trader of his decision to withdraw. For this purpose, the consumer may
(a) either use the model withdrawal form as set out in Annex I(B) or make any other clearly worded statement on a durable medium, or
(b) return the goods to the trader.

Member States shall not provide for any other formal requirements applicable to this model withdrawal form.

Amendment

Or.de

Justification

This amendment replaces Amendment 104.

Amendment 889
Iliana Ivanova

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission
2. For distance contracts concluded on the Internet, the trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit the standard withdrawal form on the trader's website. In that case the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.

Amendment

2. For distance contracts concluded on the Internet, the trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit the standard withdrawal form on the trader's website. In that case the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay, in any case no later than one
working day from submitting the withdrawal form.

Amendment 890
Evelyne Gebhardt

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. For distance contracts concluded on the Internet, the trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit the standard withdrawal form on the trader's website. In that case the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.

Amendment

2. If the trader gives in case of distance contracts concluded on the Internet the option to the consumer to electronically fill in and submit the standard withdrawal form on the trader's website, he shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.

Amendment 891
Emilie Turunen

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. For distance contracts concluded on the Internet, the trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit the standard withdrawal form on the trader's website. In that case the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.

Amendment

2. For distance contracts concluded on the Internet, if the trader gives the option to the consumer to electronically fill in and submit the standard withdrawal form on the trader's website, the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.
Amendment 892
Frank Engel

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. For distance contracts concluded on the Internet, the trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit the *standard* withdrawal form on the trader's website. In that case the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.

Amendment

2. For distance contracts concluded on the Internet, the trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit the *standardised European* withdrawal form on the trader's website. In that case the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal by email without delay.

Or.fr

Amendment 893
Ashley Fox

Proposal for a directive
Article 14 – paragraph 2 a (new)

Text proposed by the Commission

2 a. A trader may accept notice of withdrawal by any other means in addition to the means described in (1) and (2). Where he does so, he shall acknowledge that notice in a durable medium.

Amendment

2 a. A trader may accept notice of withdrawal by any other means in addition to the means described in (1) and (2). Where he does so, he shall acknowledge that notice in a durable medium.

Or.en

Amendment 894
Kerstin Westphal

Proposal for a directive
Article 15 – paragraph 1 a (new)
Text proposed by the Commission

1a. The parties shall reimburse each other in full for the services each has rendered to the other as a consequence of the withdrawal.

(This is a reference, in terms of legal effects, to the general effects of the withdrawal.)

Amendment 895
Tiziano Motti

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

1. The trader shall reimburse any payment received from the consumer within thirty days from the day on which he receives the communication of withdrawal.

Amendment
deleted

Or.de

Amendment 896
Robert Rochefort

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

1. The trader shall reimburse any payment received from the consumer without delay, and in any event within thirty days from the day on which he receives the communication of withdrawal.

Amendment

Reimbursement shall in principle be made by any means of payment. However, consumers who have exercised their right of withdrawal may, at the proposal of the
trader, opt for a different method of reimbursement.

Justification

This amendment is intended to prevent the practice of credit notes being systematically proposed to the consumer by way of reimbursement, with the effect of tying the consumer again to the trader. Exceptions are clearly possible, provided that the consumer gives his agreement to this form of reimbursement.

Amendment 897
Werner Langen, Kurt Lechner

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

1. The trader shall reimburse any payment received from the consumer within thirty days from the day on which he receives the communication of withdrawal.

Amendment

1. The trader shall reimburse the consumer for all costs for which he is entitled to a refund within thirty days from the day on which he receives the communication of withdrawal, with the exception of those sales contracts in which the trader, pursuant to Paragraph 1a and Article 17 is not required to make the reimbursement until he has received or collected the goods back.

Justification

The current wording of the Directive is ambiguous. It is unclear whether the reimbursement within 30 days should take place whether or not the consumer has fulfilled his obligation to send the goods back. The requirement for the trader to reimburse the consumer's costs should be made a clearly separate issue from the obligation to send the goods back.

Amendment 898
Liem Hoang Ngoc

Proposal for a directive
Article 16 – paragraph 1
Text proposed by the Commission

1. The trader shall reimburse any payment received from the consumer within *thirty* days from the day on which he receives the *communication* of withdrawal.

Amendment

1. The trader shall reimburse any payment received from the consumer *as soon as possible and at the latest* within *fifteen* days from the day on which he receives the *notification* of withdrawal.

Amendment 899
Evelyne Gebhardt

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

1. The trader shall reimburse any payment received from the consumer *within thirty* days from the day on which he receives the *communication* of withdrawal.

Amendment

1. The trader shall reimburse any payment, *including, if applicable, the costs of delivery*, received from the consumer *without undue delay, and in any case not later than* thirty days from the day on which he receives the *communication of withdrawal*.

Amendment 900
Emilie Turunen

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

1. The trader shall reimburse any payment received from the consumer *within thirty* days from the day on which he receives the *communication of withdrawal*.

Amendment

1. The trader shall reimburse any payment, *including, if applicable, the costs of delivery*, received from the consumer *without undue delay, and in any case not later than* thirty days from the day on which he receives the *communication of withdrawal*.
Justification

Where the consumer has paid for delivery, the exercise of the right of withdrawal should also trigger the reimbursement of the amount paid for delivery of the good to the trader.

Amendment 901
Philippe Juvin
Proposal for a directive
Article 16 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The trader shall reimburse any payment received from the consumer within thirty days from the day on which he receives the communication of withdrawal.</td>
<td>1. The trader shall be required to return to the consumer all of the sums paid, without delay and not later than fifteen days from the day on which he receives the notification of withdrawal. Reimbursement shall be made by any means of payment, in agreement with the consumer.</td>
</tr>
</tbody>
</table>

Justification

It is important to allow the consumer to be reimbursed as soon as possible and within a shorter period than that proposed by the Commission (15 days instead of a month). The means of payment (e.g. payment in vouchers) must not be imposed on the consumer by the trader; the means of payment must therefore be decided in agreement with the consumer.

Amendment 902
Konstantinos Poupakis, Sylvana Rapti
Proposal for a directive
Article 16 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The trader shall reimburse any payment received from the consumer within thirty days from the day on which he receives the communication of withdrawal.</td>
<td>1. The trader shall reimburse all payments received from the consumer without delay and at the latest fourteen days from the day on which he receives the communication of withdrawal.</td>
</tr>
</tbody>
</table>

Or.fr

Or.el
### Amendment 903

**Damien Abad, Constance Le Grip**

**Proposal for a directive**  
**Article 16 – paragraph 1**

<table>
<thead>
<tr>
<th><strong>Text proposed by the Commission</strong></th>
<th><strong>Amendment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The trader shall reimburse any payment received from the consumer <strong>within thirty</strong> days from the day on which he receives the <strong>communication</strong> of withdrawal.</td>
<td>1. The trader shall reimburse any payment received from the consumer <strong>without delay and not later than fifteen</strong> days from the day on which he receives the <strong>notification</strong> of withdrawal. <strong>Reimbursement shall be made by any means of payment. However, at the proposal of the trader, consumers who have exercised their right of withdrawal may opt for a different method of reimbursement.</strong></td>
</tr>
</tbody>
</table>

**Justification**

_In order to prevent the practice of credit notes being systematically proposed to the consumer by way of reimbursement, which results in the consumer being tied to the trader, it is imperative to incorporate in the provisions the basic principle that reimbursement is to be made by any means of payment. An exception may only be made to this rule if the consumer gives his agreement to a different form of reimbursement._

### Amendment 904

**Catherine Stihler**

**Proposal for a directive**  
**Article 16 – paragraph 1**

<table>
<thead>
<tr>
<th><strong>Text proposed by the Commission</strong></th>
<th><strong>Amendment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The trader shall reimburse any payment received from the consumer <strong>within</strong> thirty days from the day on which he receives the communication of withdrawal.</td>
<td>1. The trader shall reimburse any payment <strong>including the costs of delivery</strong> received from the consumer <strong>without undue delay, and in any case not later than</strong> thirty days from the day on which he receives the communication of withdrawal.</td>
</tr>
</tbody>
</table>

**Or.en**
Justification

Where a consumer withdraws from a contract, this should trigger an obligation on the consumer to return the goods and a concurrent obligation on the trader to return all monies received. Allowing a trader to withhold payment until receipt of goods is unfair, unbalanced and inappropriate.

Amendment 905
Anja Weisgerber

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission
1. The trader shall reimburse any payment received from the consumer within thirty days from the day on which he receives the communication of withdrawal.

Amendment
1. The trader shall reimburse any payment received from the consumer without delay as soon as he receives the communication of withdrawal.

Or.de

Justification

There is no obvious reason why the trader should be granted a period of 14 days after receipt of the notice of withdrawal before making the reimbursement. Since services cannot be reimbursed, receipt of the notice of withdrawal is sufficient for the reimbursement obligation in this case.

Amendment 906
Kyriacos Triantaphyllides

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission
1. The trader shall reimburse any payment received from the consumer within thirty days from the day on which he receives the communication of withdrawal.

Amendment
1. The trader shall reimburse any payment received from the consumer within seven days from the day on which he receives the communication of withdrawal.

Or.el
Amendment 907
Toine Manders

Proposal for a directive
Article 16 – paragraph 1

*Text proposed by the Commission*

1. The trader shall reimburse *any payment* received from the consumer *within thirty* days from the day on which he receives the communication of withdrawal.

*Amendment*

1. The trader shall reimburse *all payments* received from the consumer *without any unjustified delay and no later than fourteen* days from the day on which he receives the communication of withdrawal.

Or.en

Amendment 908
Tiziano Motti

Proposal for a directive
Article 16 – paragraph 1 a (new)

*Text proposed by the Commission*

1a. The trader shall not be required to reimburse the cost of standard delivery of goods to the consumer. If the consumer has expressly opted for a type of delivery other than standard delivery, the trader shall not be required to reimburse the resulting additional costs.

*Amendment*

*Justification*

Traders would be required to reimburse all of the costs incurred by the consumer, including shipping costs. There is a risk of this deterring traders from engaging in online sales because they could be obliged to reimburse shipping costs.

Amendment 909
Werner Langen, Kurt Lechner

Proposal for a directive
Article 16 – paragraph 1 a (new)
1a. For sales contracts for which the material possession of the goods has been transferred to the consumer or, at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

The consumer shall only be charged for the direct cost of returning the goods and for any delivery charges to which the consumer has agreed and which arise from the consumer's desire for non-standard delivery of the items, unless the trader has agreed to bear that cost.


**Amendment 910**

Werner Langen, Kurt Lechner

Proposal for a directive

Article 16 – paragraph 2
2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Justification
The first part of this provision has been partly resolved in the previous article. This is not true of the last part of the sentence. In order for it to be established whether the value of the goods has been diminished, the trader must be in a position to physically examine the goods. It is therefore not sufficient for the consumer simply to provide proof that he has sent back the goods.

Amendment 911
Liem Hoang Ngoc
Proposal for a directive
Article 16 – paragraph 2

2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Amendment 912
Evelyne Gebhardt
Proposal for a directive
Article 16 – paragraph 2
Text proposed by the Commission

2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Amendment 913
Emilie Turunen

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission

2. For sales contracts, the trader may
withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Or.en

Justification

This provision proposed by the Commission does not currently exist in EU legislation and would place the consumer at a manifest disadvantage which may discourage him/her from exercising the right of withdrawal.

Amendment 914
Catherine Stihler

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission

2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or

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the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Justification
Where a consumer withdraws from a contract, this should trigger an obligation on the consumer to return the goods and a concurrent obligation on the trader to return all monies received. Allowing a trader to withhold payment until receipt of goods is unfair, unbalanced and inappropriate

Amendment 915
Tiziano Motti
Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission
2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Amendment
2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Amendment 916
Anja Weisgerber
Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission
2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Amendment
2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.
**Justification**

*Paragraph 2 should be deleted. To oblige the consumer to make an advance payment in the case of revocation does not seem appropriate.*

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**Amendment 917**  
*Andreas Schwab, Wim van de Camp, Małgorzata Handzlik*  

Proposal for a directive  
**Article 16 – paragraph 2**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. For <em>sales</em> contracts, the trader may <strong>withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.</strong></td>
<td>2. For <em>distance or off-premises</em> contracts for the supply of goods, the trader may <strong>make the reimbursement conditional upon the return of the goods.</strong></td>
</tr>
</tbody>
</table>

**Or.de**

**Justification**

*This amendment replaces Amendment 110.*

---

**Amendment 918**  
*Tiziano Motti*  

Proposal for a directive  
**Article 16 – paragraph 2**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. For sales contracts, the trader may <strong>withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.</strong></td>
<td>2. For sales contracts, the trader may <strong>withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever of the two is the earliest.</strong></td>
</tr>
</tbody>
</table>

**Or.it**
Justification

Traders would be required to reimburse all of the costs incurred by the consumer, including shipping costs. There is a risk of this deterring traders from engaging in online sales because they could be obliged to reimburse shipping costs.

Amendment 919
Toine Manders

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission
2. For sales contracts, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Amendment
2. For contracts for the sales of goods, the trader may withhold the reimbursement until he has received or collected the goods back, or the consumer has supplied evidence of having sent back the goods, whichever is the earliest, unless the trader has offered to fetch the goods himself.

Or.en

Amendment 920
Kyriacos Triantaphyllides

Proposal for a directive
Article 16 – paragraph 2 a (new)

Text proposed by the Commission
The trader shall be charged for the cost of returning the goods unless the consumer has agreed to bear that cost.

Amendment

Or.el

Amendment 921
Tiziano Motti

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 1
Text proposed by the Commission

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

Amendment

For distance or off-premises contracts for the supply of goods for which the material possession of the goods has been transferred to the consumer or, at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself. The consumer shall be charged only for the direct cost of returning the goods if the trader has not agreed with the consumer to bear that cost himself.

Or it

Justification

Traders would be required to reimburse all of the costs incurred by the consumer, including shipping costs. There is a risk of this deterring traders from engaging in online sales because they could be obliged to reimburse shipping costs.

Amendment 922
Anna Maria Corazza Bildt

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on

Amendment

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within seven days within the same country.
which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself. and fourteen days cross-border from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

Amendment 923
Kurt Lechner

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

Amendment

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader.

Amendment 924
Jürgen Creutzmann

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the

Amendment

For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the
consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within seven days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

Amendment 925
Cornelis de Jong

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission
For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within fourteen days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

Amendment
For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, or let the trader collect the goods himself when he has offered to do so, within fourteen days from the day on which he communicates his withdrawal to the trader.

Or.en

Amendment 926
Małgorzata Handzlik

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission
For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the

Amendment
For sales contracts for which the material possession of the goods has been transferred to the consumer or at his request, to a third party before the expiration of the withdrawal period, the
consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within **fourteen** days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive them, within **seven** days from the day on which he communicates his withdrawal to the trader, unless the trader has offered to collect the goods himself.

**Justification**

*This amendment is justified to avoid situations which would be too burdensome for the trader. The current proposal for Article 17(1) may mean, in certain cases, that the consumer would be entitled to be in possession of the good for around 28 days (14 days to communicate withdrawal plus 14 extra days from the day of communication to return the goods). This is disproportionate and too burdensome on the trader. Additionally the consumer should be aware that as soon as he decides to withdraw from the contract, he has to send back the good. It is also in the interest of the consumer if he wishes to receive his payment back as soon as possible. Full level of harmonization.*

**Amendment 927**

*Werner Langen, Kurt Lechner*

Proposal for a directive

**Article 17 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*  

**Amendment**

*During the withdrawal period the consumer who may possibly wish to exercise his right to withdraw shall have a duty of care in respect of the good. In this case, the consumer should only handle or try it in the same manner as he would be allowed to do in a shop and only to the extent necessary to determine its nature, qualities and functioning.*

**Justification**

*One of the biggest barriers to online trade is abuse involving the return of goods that were acquired with a view to short-term use and subsequent return to the trader (e.g. wedding dresses, flat-screen TVs, etc.). In order to guarantee traders protection in such cases, the*
wording of recital 31 should be incorporated into the body of the Directive.

Amendment 928
Emilie Turunen

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The consumer shall only be charged for the direct cost of returning the goods unless the trader has agreed to bear that cost.

Amendment

deleted

Or.en

Amendment 929
Kyriacos Triantaphyllides

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The consumer shall only be charged for the direct cost of returning the goods unless the trader has agreed to bear that cost.

Amendment

deleted

Or.el

Amendment 930
Liem Hoang Ngoc

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The consumer shall only be charged for the direct cost of returning the goods unless the trader has agreed to bear that cost.

Amendment

The consumer shall only be charged for the direct cost of returning the goods. He shall not be charged for that cost if the trader has agreed to bear it or if the cost of
returning the goods is more than EUR 50.

Justification

It would seem more logical to take account of the cost of returning goods, as, for example, in the case of bulky goods, the costs incurred for returning the goods may be higher than the price of the goods themselves, which makes the right of withdrawal totally meaningless.

Amendment 931
Catherine Stihler

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The consumer shall only be charged for the direct cost of returning the goods unless the trader has agreed to bear that cost.

Amendment

The costs of return of the good(s) shall be borne by the trader unless stipulated otherwise in the contract.

Or.en

Amendment 932
Catherine Soullie, Damien Abad, Philippe Juvin, Amalia Sartori

Proposal for a directive
Article 17 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The consumer shall only be charged for the direct cost of returning the goods unless the trader has agreed to bear that cost.

Amendment

The consumer shall only be charged for the direct cost of returning the goods. He shall not be charged for that cost if the trader has agreed to bear it or if the cost of returning the goods is more than EUR 50.

Or.en
Amendment 933  
Emilie Turunen  
Proposal for a directive  
Article 17 – paragraph 1 a (new)  

**Text proposed by the Commission**  

1a. The costs of return of the good shall be borne by the trader if the price of the good to be returned is more than 20 €.  

**Amendment**  

Or.en

Amendment 934  
Werner Langen, Kurt Lechner  
Proposal for a directive  
Article 17 – paragraph 2  

**Text proposed by the Commission**  

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.  

**Amendment**  

2. The consumer shall be liable for any diminished value of the goods resulting from failure on his part to fulfil the obligations set out in Article 17(1a).  

Or.de

**Justification**  

Linguistic clarification by deletion of the word 'only', clarifying that in the situation described there is no limitation on consumer liability. The remainder corresponds to the amendments to Article 17(1a) proposed above.
Amendment 935
Evelyne Gebhardt

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. The consumer shall **only** be liable for any diminished value of the **goods** resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He **shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b).** For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

Amendment

2. The consumer shall **not** be liable for:

**(a)** any diminished value of the **subject-matter** resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods;

**(b)** any destruction, or loss of, or damage to the subject-matter, provided that the consumer used reasonable care to prevent such destruction, loss or damage.

Amendment 936
Emilie Turunen

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. The consumer **shall only be liable** for any **diminished** value of the **goods** resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He **shall not be liable for diminished value where the**

Amendment

2. The consumer **is not required to pay** for:
trader has failed to provide notice of the withdrawal right in accordance with Article 9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

(a) any diminution in the value of anything received under the contract caused by inspection and testing;
(b) any destruction, or loss of, or damage to, anything received under the contract, provided that the consumer used reasonable care to prevent such destruction, loss or damage.

Or.en

Justification

The proposed provision that allows the trader to claim compensation for the diminished value of the goods caused by normal use does not currently exist in EU legislation and may prevent consumers from exercising their right of withdrawal.

Amendment 937
Othmar Karas

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

Amendment

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to establish the nature, qualities and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Articles 10(1) and 11(4). In the case of services performed during the withdrawal period to which a right of withdrawal applies and for which cancellation is no longer possible, the
consumer shall **pay the undertaking for the service which has been used or can no longer be reversed in accordance with its value, provided that this service is clearly and mainly to the consumer's advantage.**

*Or.de*

**Justification**

*To say that in the case of service contracts to which a right of withdrawal applies there should be absolutely no entitlement to payment for services which have been used is incompatible with the basic values of civil law systems.*

**Amendment 938**  
Catherine Stihler

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

*Text proposed by the Commission*  
2. The consumer **shall only be liable for** any *diminished* value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

*Amendment*  
2. The consumer **is not required to pay for:**

a) any *diminution in the* value of *anything received under the contract caused by inspection and testing*;

b) any destruction, or loss of, or damage to, *anything received under the contract, provided that* the consumer *used reasonable care to prevent such destruction, loss or damage.*

*Or.en*
Amendment 939  
Emma McClarkin

Proposal for a directive  
Article 17 – paragraph 2

**Text proposed by the Commission**

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. **He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b).** For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

**Amendment**

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods, **except for perishable goods that would lose their value.** For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

**Justification**

*Due to their very nature, press products lose their value after a very short period of time. Therefore it serves no purpose for the consumer to be obliged to return the goods.*

---

Amendment 940  
Rafal Trzaskowski, Róża Gräfin von Thun und Hohenstein, Małgorzata Handzlik, Sandra Kalniete

Proposal for a directive  
Article 17 – paragraph 2

**Text proposed by the Commission**

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article

**Amendment**

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article
9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period when the trader has failed to provide information in accordance to Article 5.1(e) or when the consumer has not requested the performance of the service to begin during the withdrawal period in accordance to Article 10.2 (a) or 11. 4(a).

Amendment 941
Kurt Lechner

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

Amendment

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. For service contracts subject to a right of withdrawal, the consumer shall bear the cost for services performed, in full or in part, during the withdrawal period.

Amendment 942
Malcolm Harbour

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. The consumer shall only be liable for

Amendment

2. The consumer shall only be liable for
any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods. He shall not be liable for diminished value where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b). For service contracts subject to a right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

**Amendment 943**
Werner Langen, Kurt Lechner

Proposal for a directive
Article 17 – paragraph 2 a (new)

*Text proposed by the Commission*  
2 a. The consumer shall not be liable for any diminished value of the goods where the trader has failed to provide notice of the withdrawal right in accordance with Article 9(b).

*Amendment*

*Justification*

The changes proposed above make it necessary - for reasons of consistency - to include this provision, originally proposed as part of Article 17, in a different paragraph.

**Amendment 944**
Werner Langen

Proposal for a directive
Article 17 – paragraph 2 b (new)

*Text proposed by the Commission*  
2 b. For service contracts subject to a
right of withdrawal, the consumer shall bear no cost for services performed, in full or in part, during the withdrawal period.

Or.de

Justification

The changes proposed above make it necessary - for reasons of consistency - to include this provision, originally proposed as part of Article 17, in a different paragraph. In addition, service contracts should be dealt with separately. It is also essential to clarify that a right of withdrawal can no longer be exercised if the consumer asked for the service to be performed.

Amendment 945
Evelyne Gebhardt

Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

2a. For services contracts, the consumer is only liable for costs that incurred up to the point of withdrawal when he expressly requested the early performance of the contract. Such costs should be reasonable and proportionate to the service already provided.

Or.en

Amendment 946
Evelyne Gebhardt

Proposal for a directive
Article 17 – paragraph 2 b (new)

Text proposed by the Commission

2b. Except as provided in this Article, the consumer does not incur any liability through the exercise of the right of withdrawal.
AMENDMENT 947
Emilie Turunen

Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For services contracts, the consumer is liable for any costs incurred up to the point of withdrawal only when he expressly requested the early performance of the contract. Such costs should be reasonable and proportionate to the extent of the service already provided up to the point of withdrawal.

AMENDMENT 948
Emilie Turunen

Proposal for a directive
Article 17 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Except as provided in this Article, the consumer does not incur any liability through the exercise of the right of withdrawal.

AMENDMENT 949
Catherine Stihler

Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For services contracts, the consumer
is liable for any reasonable costs incurred up to the point of withdrawal only when he expressly requested the early performance of the contract.

Or.en

Justification

Requiring a consumer to pay for any diminished value in the goods would significantly undermine the value of the right to withdraw as it is likely to discourage consumers from exercising this right. Also, it would be difficult to identify an appropriate reduction and would place a considerable and unnecessary burden on both business and consumers. A similar right that currently exists in the UK when replacing faulty goods is rarely enforced by traders for these very reasons.

Amendment 950
Catherine Stihler

Proposal for a directive
Article 17 – paragraph 2b (new)

Text proposed by the Commission

Amendment

2b. Except as provided in this Article, the consumer does not incur any liability through the exercise of the right of withdrawal.

Or.en

Justification

Requiring a consumer to pay for any diminished value in the goods would significantly undermine the value of the right to withdraw as it is likely to discourage consumers from exercising this right. Also, it would be difficult to identify an appropriate reduction and would place a considerable and unnecessary burden on both business and consumers. A similar right that currently exists in the UK when replacing faulty goods is rarely enforced by traders for these very reasons.

Amendment 951
Jürgen Creutzmann

Proposal for a directive
Article 17 – paragraph 2 a (new)
Text proposed by the Commission

2a. Member States may not adopt or maintain rules which go beyond the provisions in this Article, including where they result in a higher or lower level of consumer protection.

Amendment 952
Malcolm Harbour
Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

2a. In relation to an off premises contract for the provision of services (including where goods are provided as part of the transaction), subject to a right of withdrawal where the trader has failed to provide information in accordance with Article 9(1)(b), (g) or failed to require a request from the consumer in accordance with Article 10(2a), the consumer shall bear no cost for services performed or for goods provided as part of the transaction, in full or in part, during the withdrawal period.

Amendment 953
Malcolm Harbour
Proposal for a directive
Article 17 – paragraph 2 b (new)

Text proposed by the Commission

2b. Where the consumer exercises the right of withdrawal after having made a request in accordance with Article 10(2a),
the consumer shall pay the trader a reasonable amount:

(a) which shall not exceed an amount which is in proportion to the extent of the services provided until the time the consumer has informed the trader of the exercise of the right of withdrawal, in comparison with those required under the contract;

(b) for any diminished value of any goods supplied in connection with the service performance in accordance with paragraph 2.

Or.en

Amendment 954
Morten Løkkegaard
Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For service contracts subject to a right of withdrawal, the consumer is liable for any costs incurred up to the point of withdrawal only when he expressly requested the performance of the contract before the end of the withdrawal period. Such costs should be reasonable and proportionate to the extent of the service already provided up to the point of withdrawal.

Or.en

Amendment 955
Konstantinos Poupakis, Sylvana Rapti
Proposal for a directive
Article 19 – paragraph 1 – introductory part
Text proposed by the Commission

1. In respect of distance contracts, the right of withdrawal shall not apply as regards the following:

Amendment

1. In respect of distance contracts and off-premises contracts, the consumer shall not enjoy the right of withdrawal from the contract as regards the following:

Or.el

Amendment 956
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. In respect of distance contracts, the right of withdrawal shall not apply as regards the following:

Amendment

1. In respect of distance and off-premises contracts, the right of withdrawal shall not apply as regards the following:

Or.de

Amendment 957
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. In respect of distance contracts, the right of withdrawal shall not apply as regards the following:

Amendment

1. In respect of distance contracts and off-premises contracts, the right of withdrawal shall not apply as regards the following:

Or.de

Amendment 958
Evelyne Gebhardt

Proposal for a directive
Article 19 – paragraph 1 – introductory part
1. In respect of distance contracts, the right of withdrawal shall not apply as regards the following:

- when a withdrawal from the contract is not reconcilable with the type of good, the product itself or the service.

Amendment 959
Robert Rochefort

Proposal for a directive
Article 19 – paragraph 1 a (new)

-1. Member States may maintain or introduce, in their national law, more stringent provisions than those laid down in this Article, in order to ensure a higher level of consumer protection.

Justification

This amendment makes it clear that, as regards Article 19, minimum harmonisation is to apply.

Amendment 960
Kerstin Westphal

Proposal for a directive
Article 19 – paragraph 1 – point a

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

deleted
Amendment 961
Evelyne Gebhardt

Proposal for a directive
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

deleted

Amendment

Or.en

Amendment 962
Zuzana Roithová

Proposal for a directive
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

deleted

Amendment

Or.en

Amendment 963
Rafał Trzaskowski, Róża Gräfin von Thun und Hohenstein, Sandra Kalniete, Małgorzata Handzlik

Proposal for a directive
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

deleted

Amendment
Amendment 964
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

Amendment

(a) in the case of a service contract where the contract has been completely performed by both parties, with the consumer's express consent, before the consumer has exercised the right of withdrawal;

Justification


Amendment 965
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

Amendment

deleted

Or.en
Amendment 966
Robert Rochefort

Proposal for a directive
Article 19 – paragraph 1 – point a

*Text proposed by the Commission*

a) services where performance has begun, *with the consumer's prior express consent*, before the end of the fourteen day period referred to in Article 12;

*Amendment*

a) services where performance has begun before the end of the fourteen day period referred to in Article 12, *with the consumer's prior express consent on a durable medium*; in such cases, the consent should also extend to waiving his right of withdrawal;

Or.fr

Amendment 967
Kyriacos Triantaphyllides

Proposal for a directive
Article 19 – paragraph 1 – point a

*Text proposed by the Commission*

(a) services where performance has begun, with the consumer's prior express consent, before the end of the fourteen day period referred to in Article 12;

*Amendment*

(a) services where performance has begun, with the consumer's prior express consent, *on a durable medium* before the end of the thirty day period referred to in Article 12;

Or.el

Amendment 968
Tiziano Motti

Proposal for a directive
Article 19 – paragraph 1 – point a

*Text proposed by the Commission*

(a) services where performance has begun, with the consumer's prior express consent,

*Amendment*

(a) services where performance has begun, with the consumer's prior express consent
before the end of the fourteen day period referred to in Article 12; on a durable medium, before the end of the fourteen day period referred to in Article 12 (either under a sales or service contract or as part of a mixed-purpose service).

Or.it

Justification

The issue of mixed-purpose goods and services contracts has not been adequately addressed. For example, a consumer who purchases a telephone and has started to use the telephone and the related telecommunications service should be entitled to return the phone, but not to terminate the related telecommunications service contract.

Amendment 969
Evelyne Gebhardt
Proposal for a directive
Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) the supply of goods or services for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader;

Amendment

deleted

Or.en

Amendment 970
Anja Weisgerber
Proposal for a directive
Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) the supply of goods or services for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader;

Amendment

deleted

Or.de
Justification

The provision seems impractical.

Amendment 971
Andreas Schwab, Wim van de Camp, Frank Engel

Proposal for a directive
Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) the supply of goods or services for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader;

Amendment

(b) the supply of goods or services for which the price is dependent on fluctuations in the market which cannot be controlled by the trader and which may occur within the withdrawal period;

Or.de

Amendment 972
Kerstin Westphal

Proposal for a directive
Article 19 – paragraph 1 – point c

Text proposed by the Commission

(c) the supply of goods made to the consumer's specifications or clearly personalized or which are liable to deteriorate or expire rapidly;

Amendment

(c) the supply of goods made to the consumer's specifications or clearly personalized or in the case of which withdrawal is incompatible with the nature of the goods, product or service;

Or.de

Amendment 973
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 19 – paragraph 1 – point c

Text proposed by the Commission

(c) the supply of goods made to the

Amendment

(c) the supply of goods made to the
consumer's specifications or clearly personalized or which are liable to deteriorate or expire rapidly;

Amendment 974
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point c

Text proposed by the Commission

(c) the supply of goods made to the consumer's specifications or clearly personalized or which are liable to deteriorate or expire rapidly;

Amendment

(c) contracts for which the consumer, in order to respond to an immediate emergency, has requested the immediate performance of the contract by the trader; if, on this occasion, the trader provides or sells additional services or goods other than those which are strictly necessary to meet the immediate emergency of the consumer, the right of withdrawal shall apply to those additional services or goods;

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 975
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 19 – paragraph 1 – point c a (new)

Text proposed by the Commission

(ca) the supply of goods which are liable
to deteriorate or expire rapidly;

<table>
<thead>
<tr>
<th>Amendment 976</th>
<th>Hans-Peter Mayer</th>
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<tbody>
<tr>
<td>Proposal for a directive</td>
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<tr>
<td>Article 19 – paragraph 1 – point c a (new)</td>
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</table>

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(ca) services tailored to the consumer's personalised requirements or wishes and requiring the entrepreneur to make individual arrangements which he can make no other use of;</td>
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<table>
<thead>
<tr>
<th>Amendment 977</th>
<th>Andreas Schwab</th>
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<tr>
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<tr>
<td>Article 19 – paragraph 1 – point c a (new)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(ca) the supply of foodstuffs, beverages or other hygienically sensitive goods whose packaging or sealing has already been opened by the consumer, after having previously been informed about the exclusion of the right of withdrawal;</td>
<td></td>
</tr>
</tbody>
</table>

**Justification**

This amendment replaces the previous Amendment 118.
Amendment 978
Andreas Schwab, Wim van de Camp, Małgorzata Handzlik, Lara Comi

Proposal for a directive
Article 19 – paragraph 1 – point c b (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>(cb) contracts which, in accordance with the provisions of the Member States, are certified by a public office-holder who has a statutory obligation to be independent and impartial and must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful consideration and with knowledge of its legal scope;</td>
<td>Or.de</td>
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</table>

Amendment 979
Robert Rochefort

Proposal for a directive
Article 19 – paragraph 1 – point c a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(ca) the supply of foodstuffs, beverages or other hygienically sensitive goods whose packaging or sealing has already been opened by the consumer and the supply of products which might pose a health risk if returned within the fourteen-day right of withdrawal period;</td>
<td>Or.fr</td>
</tr>
</tbody>
</table>

Amendment 980
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – point c a (new)
Text proposed by the Commission

(ca) where goods are supplied which, due to intervention by the consumer, are no longer marketable and which the trader cannot sell again or can only sell again at a substantial discount, particularly due to their having been combined or mixed with other substances or on grounds of the protection of health or hygiene;

Or.de

Justification

Unless these products are excluded from the right of withdrawal, it will in future hardly be possible for traders to offer them for sale under a distance or off-premises contract. Supply would therefore be considerably reduced, to the detriment of consumers, or significant price mark-ups would have to be made.

Amendment 981
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – point c b (new)

Text proposed by the Commission

(cb) contracts for which the consumer, in order to respond to an immediate emergency, has requested the immediate performance of the contract by the trader; if, on this occasion, the trader provides or sells additional services or goods other than those which are strictly necessary to meet the immediate emergency of the consumer, the right of withdrawal shall apply to those additional services or goods;

Or.de
Amendment 982
Kurt Lechner

Proposal for a directive
Article 19 – paragraph 1 – point c – paragraph 1a (new)

Text proposed by the Commission

Amendment

1a. services tailored to the consumer's personalised requirements or wishes and requiring the entrepreneur to make individual arrangements which he can make no other use of;

Or.de

Amendment 983
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – point c c (new)

Text proposed by the Commission

Amendment

(cc) services tailored to the consumer's personalised requirements or wishes and requiring the supplier to make individual arrangements which he can make no other use of;

Or.de

Justification

In these individual cases the exclusion of the right of withdrawal causes only an insignificant disadvantage to the consumer, as the detailed wishes of the latter will inevitably have been thoroughly discussed.

Amendment 984
Catherine Soullie, Damien Abad, Philippe Juvin, Amalia Sartori

Proposal for a directive
Article 19 – paragraph 1 – point c a (new)
Text proposed by the Commission

(ca) the supply of foodstuffs, beverages and other hygienically sensitive goods, or goods that may create a sanitary risk if returned within the withdrawal period;

Amendment

Or.en

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission

(d) the supply of wine, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;

Amendment

Or.de

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission

(d) the supply of wine, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;
Justification

This amendment replaces the previous Amendment 121.

Amendment 987
Kurt Lechner

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission
(d) the supply of wine, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;

Amendment
deleted

Amendment 988
Catherine Stihler

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission
(d) the supply of wine, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;

Amendment
(d) the supply of alcoholic beverages, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;
**Justification**

The supply of alcoholic beverages 'en primeur' is not restricted to wine. For example, spirits which are required to undergo maturation in cask may be purchased on the basis that they will be delivered, years later, as mature spirit. It is therefore appropriate to broaden the scope of the provision to include other alcoholic beverages.

**Amendment 989**

George Lyon

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission

(d) the supply of wine, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;

Amendment

(d) the supply of wine and other alcoholic beverages, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;

**Justification**

In addition to wine sold 'en primeur', a number of other alcoholic beverages, notably spirits which are required to undergo maturation in cask for several years, have long been sold on the basis that they will be delivered to the consumer at a designated future date, often years later. It is therefore appropriate to broaden the scope of the existing provision to include all such beverages and thereby reflect current practice.

**Amendment 990**

Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission

(d) the supply of wine, the price of which has been agreed upon at the time of the

Amendment

(d) contracts for which the consumer has specifically requested the trader to visit
conclusion of the sales contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader; him at home for the purpose of carrying out repairs or maintenance; if on this occasion, the trader provides services in addition to those specifically requested by the consumer or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods;

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 991
Kerstin Westphal
Proposal for a directive
Article 19 – paragraph 1 – point e

Text proposed by the Commission
(e) the supply of sealed audio or video recordings or computer software which were unsealed by the consumer;

Amendment
deleted

Or.de

Amendment 992
Evelyne Gebhardt
Proposal for a directive
Article 19 – paragraph 1 – point e

Text proposed by the Commission
(e) the supply of sealed audio or video recordings or computer software which were unsealed by the consumer;

Amendment
deleted

Or.de
Amendment 993
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point e

Text proposed by the Commission

(e) the supply of sealed audio or video recordings or computer software which were unsealed by the consumer;

Amendment

deleted

Or.de

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 994
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 19 – paragraph 1 – point e

Text proposed by the Commission

(e) the supply of sealed audio or video recordings or computer software which were unsealed by the consumer;

Amendment

unless, on unsealing the goods, the consumer ascertains non-conformity under the provisions of Article 17(2);

Or.el
Amendment 995
Emilie Turunen

Proposal for a directive
Article 19 – paragraph 1 – point e

_Text proposed by the Commission_ (e) the supply of sealed audio or video recordings or computer software which were unsealed by the consumer;

_Amendment_ (e) the supply of sealed audio or video recordings or computer software which were unsealed by the consumer, _unless the product received by the consumer differs from the product that had been ordered_;

Amendment 996
Kerstin Westphal

Proposal for a directive
Article 19 – paragraph 1 – point f

_Text proposed by the Commission_ (f) the supply of newspapers, periodicals and magazines;

_Amendment_ _deleted_

Amendment 997
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point f

_Text proposed by the Commission_ (f) the supply of newspapers, periodicals and magazines;

_Amendment_ _deleted_

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may
appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 998
Emilie Turunen

Proposal for a directive
Article 19 – paragraph 1 – point f

Text proposed by the Commission
(f) the supply of newspapers, periodicals and magazines;

Amendment
(f) the supply of newspapers, periodicals and magazines unless the contract was concluded by telephone;

Or.en

Amendment 999
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – point f

Text proposed by the Commission
(f) the supply of newspapers, periodicals and magazines;

Amendment
(f) (f) the supply of newspapers, periodicals and magazines with the exception of subscription contracts;

Or.de

Justification
In some Member States, telephone advertising of subscriptions is performed on a large scale. In order to combat such telephone advertising, a right of withdrawal should exist in such cases.

Amendment 1000
Małgorzata Handzlik

Proposal for a directive
Article 19 – paragraph 1 – point f
Text proposed by the Commission

(f) the supply of newspapers, periodicals and magazines;

Amendment

(f) the supply of newspapers, periodicals and magazines with the exception of subscription contracts;

Or.en

Justification

Consumer should have a possibility to withdraw from the subscription contract. Full harmonization.

Amendment 1001
Kerstin Westphal

Proposal for a directive
Article 19 – paragraph 1 – point g

Text proposed by the Commission

(g) gaming and lottery services;

Amendment

deleted

Or.de

Amendment 1002
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point g

Text proposed by the Commission

(g) gaming and lottery services;

Amendment

deleted

Or.de

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.
Amendment 1003
Evelyne Gebhardt

Proposal for a directive
Article 19 – paragraph 1 – point g

Text proposed by the Commission
(g) gaming and lottery services;

Amendment
(g) gaming and lottery services; unless the contract has been concluded by phone;

Or.en

Amendment 1004
Emilie Turunen

Proposal for a directive
Article 19 – paragraph 1 – point g

Text proposed by the Commission
(g) gaming and lottery services;

Amendment
(g) gaming and lottery services unless the contract was concluded by telephone;

Or.en

Amendment 1005
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – point g

Text proposed by the Commission
(g) gaming and lottery services;

Amendment
(g) gaming and lottery services, unless the contract was concluded by telephone;

Or.de

Justification

In some Member States, telephone advertising of lottery services is performed on a large scale. In order to combat this effectively, the right of withdrawal should not be excluded for contracts concluded by telephone.
Amendment 1006
Małgorzata Handzlik

Proposal for a directive
Article 19 – paragraph 1 – point g

Text proposed by the Commission

(g) gaming and lottery services;

Amendment

(g) gambling activities;

Or.en

Justification


Amendment 1007
Evelyne Gebhardt

Proposal for a directive
Article 19 – paragraph 1 – point h

Text proposed by the Commission

(h) contracts concluded at an auction.

Amendment

deleted

Or.en

Amendment 1008
Emilie Turunen

Proposal for a directive
Article 19 – paragraph 1 – point h

Text proposed by the Commission

(h) contracts concluded at an auction.

Amendment

deleted

Or.en

Justification

The exception of auctions and e-auctions would contradict existing provisions in some Member States. E-auctions are increasingly used by consumers and can serve as a way to circumvent consumers' rights.
Amendment 1009
Zuzana Roithová

Proposal for a directive
Article 19 – paragraph 1 – point h

Text proposed by the Commission
Amendment

(h) contracts concluded at an auction. deleted

Or.en

Amendment 1010
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 1 – point h

Text proposed by the Commission
Amendment

(h) contracts concluded at an auction. deleted

Or.de

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 1011
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 19 – paragraph 1 – point h

Text proposed by the Commission
Amendment

(h) contracts concluded at an auction. (h) contracts concluded at a public auction.

Or.el
Amendment 1012
Damien Abad

Proposal for a directive
Article 19 – paragraph 1 – point h

Text proposed by the Commission
h) contracts concluded at an auction.

Amendment
h) contracts concluded at a public auction.

Justification
Public auctions should be excluded. However, in the case of private auctions which take place online between professional traders and consumers, the right of withdrawal should apply in order to protect consumers against frequent abuse.

Amendment 1013
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – introductory part

Text proposed by the Commission
2. In respect of off-premises contracts, the right of withdrawal shall not apply as regards the following:

Amendment
2. In respect of distance contracts, the right of withdrawal shall in addition not apply if:

Justification
Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.
Amendment 1014
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 2 – introductory part

Text proposed by the Commission

2. In respect of off-premises contracts, the right of withdrawal shall not apply as regards the following:

Amendment

2. In respect of off-premises contracts, the right of withdrawal shall in addition not apply as regards the following:

Amendment 1015
Malcolm Harbour

Proposal for a directive
Article 19 – paragraph 2 – point b

Text proposed by the Commission

(b) contracts for which the consumer, in order to respond to an immediate emergency, has requested the immediate performance of the contract by the trader; if, on this occasion, the trader provides or sells additional services or goods other than those which are strictly necessary to meet the immediate emergency of the consumer, the right of withdrawal shall apply to those additional services or goods;

Amendment

deleted

(b) contracts for which the consumer, in order to respond to an immediate emergency, has requested the immediate performance of the contract by the trader; if, on this occasion, the trader provides or sells additional services or goods other than those which are strictly necessary to meet the immediate emergency of the consumer, the right of withdrawal shall apply to those additional services or goods;

Amendment 1016
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – point b

Text proposed by the Commission

(b) contracts for which the consumer, in order to respond to an immediate emergency, has requested the immediate performance of the contract by the trader; if, on this occasion, the trader provides or sells additional services or goods other than those which are strictly necessary to meet the immediate emergency of the consumer, the right of withdrawal shall apply to those additional services or goods;

Amendment

(b) the supply of goods or services for which the price is dependent on
emergency, has requested the immediate performance of the contract by the trader; fluctuations in the financial market which cannot be controlled by the trader;
if, on this occasion, the trader provides or sells additional services or goods other than those which are strictly necessary to meet the immediate emergency of the consumer, the right of withdrawal shall apply to those additional services or goods;

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 1017
Malcolm Harbour

Proposal for a directive
Article 19 – paragraph 2 – point c

Text proposed by the Commission Amendment

(c) contracts for which the consumer has specifically requested the trader, by means of distance communication, to visit his home for the purpose of repairing or performing maintenance upon his property; if on this occasion, the trader provides services in addition to those specifically requested by the consumer or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods.

Or.en
Amendment 1018
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – point c

Text proposed by the Commission

(c) contracts for which the consumer has specifically requested the trader, by means of distance communication, to visit his home for the purpose of repairing or performing maintenance upon his property; if on this occasion, the trader provides services in addition to those specifically requested by the consumer or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods.

Amendment

(c) the supply of wine, the price of which has been agreed upon at the time of the conclusion of the contract, the delivery of which can only take place beyond the time-limit referred to in Article 22(1) and the current value of which is dependent on fluctuations in the market which cannot be controlled by the trader;

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 1019
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 2 – point c

Text proposed by the Commission

(c) contracts for which the consumer has specifically requested the trader, by means of distance communication, to visit his home for the purpose of repairing or performing maintenance upon his property; if on this occasion, the trader provides services in addition to those specifically requested by the consumer or

Amendment

(c) if the initiative to negotiate the contract was taken by the consumer in one of the situations referred to in Article 2(8)(a)(i). The consumer shall be deemed to have taken the initiative to negotiate the contract if, before the negotiations begin and on the basis of a decision made of his own free will without his having been
goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods.

subject to improper influence, he has specifically asked the trader to visit his place of work or a dwelling to negotiate on the supply of specific services. If, on this occasion, the trader provides goods or renders additional services, the right of withdrawal shall apply to those additional services.

Amendment 1020
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – point c a (new)

Text proposed by the Commission

(ca) the supply of sealed audio or video recordings or sealed computer software which were unsealed by the consumer;

Amendment

Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it may appear reasonable for the right of withdrawal not to apply as regards distance selling, but it would be inappropriate in the case of off-premises contracts.

Amendment 1021
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – point c b (new)

Text proposed by the Commission

(cb) newspapers, periodicals and magazines unless the consumer's agreement to the contract was given by telephone;

Amendment
Restricting the extent to which the right of withdrawal does not apply in connection with magazine subscriptions and lottery services is based on experience with illegal telemarketing. In Germany, for that reason, right-of-withdrawal exclusions were not relaxed until August 2009 by the act on combating illegal telemarketing, strengthening the consumer's position. The protection provided by the directive should not be less than this existing benchmark.

Amendment 1022
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – point c c (new)

Text proposed by the Commission

(cc) gaming and lottery services unless the consumer's agreement to the contract was given by telephone;

Amendment

Justification

Restricting the extent to which the right of withdrawal does not apply in connection with magazine subscriptions and lottery services is based on experience with illegal telemarketing. In Germany, for that reason, right-of-withdrawal exclusions were not relaxed until August 2009 by the act on combating illegal telemarketing, strengthening the consumer's position. The protection provided by the directive should not be less than this existing benchmark.

Amendment 1023
Anja Weisgerber

Proposal for a directive
Article 19 – paragraph 2 – point c d (new)

Text proposed by the Commission

(cd) contracts concluded at a public auction.

Amendment

Justification

Restricting the extent to which the right of withdrawal does not apply in connection with magazine subscriptions and lottery services is based on experience with illegal telemarketing. In Germany, for that reason, right-of-withdrawal exclusions were not relaxed until August 2009 by the act on combating illegal telemarketing, strengthening the consumer's position. The protection provided by the directive should not be less than this existing benchmark.
Justification

Combining grounds for exclusion in connection with distance and off-premises contracts does not seem appropriate. It would lead to a situation where, in identical circumstances, it might appear reasonable for the right of withdrawal not to apply where distance selling was involved, but, in the case of off-premises contracts, excluding the right of withdrawal would be inappropriate.

Amendment 1024
Kurt Lechner
Proposal for a directive
Article 19 – paragraph 2 – point c a (new)

Text proposed by the Commission Amendment

(ca) The right of withdrawal shall not apply to distance and off-premises contracts which, in accordance with the provisions of the Member States, are certified by a public office holder who has a statutory obligation to be independent and impartial and must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful consideration and with knowledge of its legal scope;

Or.de

Amendment 1025
Jürgen Creutzmann
Proposal for a directive
Article 19 – paragraph 2 – point c a (new)

Text proposed by the Commission Amendment

(ca) services tailored to the consumer's personalised requirements or wishes and requiring the supplier to make individual arrangements which he can make no other use of;
3. The parties may agree not to apply paragraphs 1 and 2.

3. In respect of distance and off-premises contracts, the right of withdrawal shall not apply as regards the following:

(a) contracts for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, selected in advance by the consumer by means of distance communication and physically supplied to the consumer's home, residence or workplace by the trader who usually sells such goods on his own business premises;

(b) the supply of goods which because of their nature cannot be resold, inter alia on grounds of hygiene or public health, which have been supplied in sealed, transparent packaging and whose packaging or seal has already been opened by the consumer after he or she has been previously informed that the goods may not be returned if the seal has been broken;

Justification

This concerns non-resellable goods such as medicines, earrings, mattresses, underwear, cosmetics and personal hygiene products. It is unrealistic to assume that a trader will agree to take back such goods, particularly if they are sold in transparent packaging.
Amendment 1027
Werner Langen, Kurt Lechner
Proposal for a directive
Article 19 – paragraph 3 a (new)

Text proposed by the Commission
3a. The parties may agree not to apply paragraphs 1, 2 and 3.

Amendment

3a. The changes proposed above make it necessary - for reasons of consistency - to include this provision in a different paragraph.

Or.de

Amendment 1028
Jürgen Creutzmann
Proposal for a directive
Article 19 – paragraph 3 a (new)

Text proposed by the Commission
3a. Member States may not adopt or maintain rules which go beyond the provisions in this Article, including where they result in a higher or lower level of consumer protection.

Amendment

Or.de

Amendment 1029
Tiziano Motti
Proposal for a directive
Article 19 a (new)
Article 19a

Conditions and derogations applicable to Member States

1. Member States shall permit the distance and off-premises selling of all type of goods and services without prejudice to:
   (a) State monopolies within the meaning of the Treaty;
   (b) licences for the sale of specific goods and services;
   (c) sales restrictions intended to protect minors;
   (d) restrictions on teleshopping.

2. By way of derogation from paragraph 1, Member States may place restrictions on the distance and off-premises selling of:
   (a) arms and ammunition;
   (b) tobacco products;
   (c) toxic products, with the exception of detergents.

3. Member States may introduce or maintain, when implementing this Directive on their own territory, restrictions on the distance and off-premises selling of prescription drugs.

Any Member State that considers it necessary to maintain a national provision pursuant to Article 36 of the Treaty on the Functioning of the European Union may temporarily suspend distance or off-premises selling of specific products in keeping with the safeguard clause in Article 114(4) to (9) of that Treaty.
Justification

To give effect to Article 14(2) and Recital 24 of Directive 97/7/EC.

Amendment 1030
Cristian Silviu Bușoi, Edvard Kožušník

Proposal for a directive
Article 20 – paragraph 1 – point a

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
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<td>(a) for the sale of immovable property or relating to other immovable property rights, except for rental and works relating to immovable property;</td>
<td>(a) for or in connection with the sale or acquisition of immovable property or the formation or transfer of rights in rem or contracts in the context of a sale of immovable property or the formation or transfer of rights in rem. This includes, in particular, agreements connected with such legal acts, such as sales of immovable property still to be developed or hire-purchase. This directive shall, however, apply to contracts for mere rental of immovable property or mere works on immovable property;</td>
</tr>
</tbody>
</table>

Justification

In contrast to contracts concerning the mere rental of immovable property or mere works on immovable property, such as the rental of an apartment or building or repairs on the house, which should be covered by this directive, contracts that are inextricably linked with the acquisition of immovable property such as the sale of a plot of land yet to be developed or hire-purchase must be excluded from the scope.

Amendment 1031
Othmar Karas

Proposal for a directive
Article 20 – paragraph 1 – point a

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) for the sale of immovable property or</td>
<td>(a) relating to the sale or acquisition of</td>
</tr>
</tbody>
</table>

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relating to other immovable property rights, except for rental and works relating to immovable property; immovable property or to the formulation or transfer of rights in rem in immovable property or in connection with the sale of immovable property or with the formulation or transfer of rights in rem in immovable property. This shall in particular include agreements connected with such legal acts, especially purchases from a property developer or leasing. This shall be without prejudice to the application of this Directive to contracts on immovable property rental only or on immovable property works only;

Or.de

Justification

The amendment serves to clarify matters. Unlike pure rental contracts or contracts purely for works on immovable property, e.g. for flat or house rental or for building repairs, which should be covered by the directive, agreements which, by definition, relate to property acquisition, such as contracts for purchases from property developers or for leasing, must also be excluded.

Amendment 1032
Hans-Peter Mayer

Proposal for a directive
Article 20 – paragraph 1 – point a

Text proposed by the Commission

(a) for the sale of immovable property or relating to other immovable property rights, except for rental and works relating to immovable property;

Amendment

(a) relating to the sale or acquisition of immovable property or to the formulation or transfer of immovable property rights or in connection with the sale of immovable property or with the formulation or transfer of immovable property rights. This shall in particular include agreements connected with such legal acts, especially purchases from a property developer or leasing. This shall be without prejudice to the application of this Directive to contracts on immovable property rental only or on immovable property works only;
Justification

Clarification. Unlike pure rental contracts or contracts purely for works on immovable property, e.g. for flat or house rental or for building repairs, which should be covered by the directive, agreements which, by definition, relate to property acquisition, such as contracts for purchases from property developers or for leasing, must also be excluded.

Amendment 1033
Emilie Turunen

Proposal for a directive
Article 20 – paragraph 1 – point a

Text proposed by the Commission

(a) for the sale of immovable property or relating to other immovable property rights, except for rental and works relating to immovable property;

Amendment

(a) for the sale or rental of immovable property or relating to other immovable property rights, except for works relating to immovable property;

Kurt Lechner

Proposal for a directive
Article 20 – paragraph 1 – point a

Text proposed by the Commission

(a) for the sale of immovable property or relating to other immovable property rights, except for rental and works relating to immovable property;

Amendment

(a) relating to the sale or acquisition of immovable property or to the formulation or transfer of immovable property rights or in connection with the sale of immovable property or with the formulation or transfer of immovable property rights. This shall also include agreements connected with such legal acts, especially contracts for purchases from a property developer or leasing contracts. This shall be without prejudice to the application of this Directive to contracts on immovable property rental only or on immovable property works.
only;

Amendment 1035
Louis Grech

Proposal for a directive
Article 20 – paragraph 1 – point a

Text proposed by the Commission

(a) for the sale of immovable property or relating to other immovable property rights, except for rental and works relating to immovable property;

Amendment

(a) for or in connection with the sale or acquisition of immovable property or the formation or transfer of rights in rem or contracts in the context of a sale of immovable property or the formation or transfer of rights in rem. This includes, in particular agreements connected with such legal acts, such as sales of immovable property still to be developed or hire-purchase. This Directive shall however apply to contracts for mere rental of immovable property or mere works on immovable property;

Justification

In contrast to contracts concerning the mere rental of immovable property or mere works on immovable property, such as the rental of an apartment or building or repairs on the house, which should be covered by this directive, contracts that are inextricably linked with the acquisition of immovable property such as the sale of a plot of land yet to be developed or hire-purchase must be excluded from the scope. null
Text proposed by the Commission

(c) concluded with telecommunications operators through public payphones for their use;

Amendment

deleted

Or.de

Amendment 1037
Kerstin Westphal

Proposal for a directive
Article 20 – paragraph 1 – point d

Text proposed by the Commission

(d) for the supply of foodstuffs or beverages by a trader on frequent and regular rounds in the neighbourhood of his business premises.

Amendment

deleted

Or.de

Amendment 1038
Othmar Karas

Proposal for a directive
Article 20 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) concluded with a lawyer as defined in Article 1(2) of Directive 98/5/EC.

Amendment

Or.de

Justification

There are situations in which a client makes an oral agreement with a lawyer and wants the lawyer to represent him or her immediately, i.e. before a written retainer has been signed. In future, lawyers might hesitate to do so before the end of the 14-day withdrawal period or before the client has signed the retainer. That would hamper the client in enforcing his rights or delay the process.
Amendment 1039
Mitro Repo, Eija-Riitta Korhola

Proposal for a directive
Article 20 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) for the provision of transport services.

Amendment

Justification

Provisions on consumer information and withdrawal right must not apply to distance and off-premises contracts for the provision of transport services. Most rules in the proposal for a Directive are not applicable to transport services, notably to local passenger transport services for which tickets are purchased at the point of use. As regards taxi services, consumer protection should be ensured at local level and it would not be appropriate to introduce different treatment between off-premises contracts (taxis hailed on the street) and distance contracts (taxis booked online) in the Directive. As regards bus/coach services, they are already covered by the Directive on package travel 90/314/EEC and the upcoming Regulation on passenger rights. For the same reasons, transport services have been excluded from the scope of the Directive on services in the internal market 2006/123EC.

Amendment 1040
Kurt Lechner

Proposal for a directive
Article 20 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) relating to financial services.

Amendment

Or.de

Amendment 1041
Cornelis de Jong

Proposal for a directive
Article 20 – paragraph 1 – point d a (new)
Text proposed by the Commission

Amendment (da) for the provision of transport services.

Or.en

Amendment 1042
Kerstin Westphal

Proposal for a directive
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) insurance, deleted

Or.de

Amendment 1043
Emilie Turunen

Proposal for a directive
Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) insurance, deleted

Or.en

Amendment 1044
Malcolm Harbour

Proposal for a directive
Article 20 – paragraph 2 – point c a (new)

Text proposed by the Commission

(ca) an off premises contract or off premises contracts entered into on the same occasion, the value or aggregate value of which is less than EUR 100.
Amendment 1045
Kerstin Westphal

Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

3. Articles 8 to 19 shall not apply to
distance contracts for the provision of accommodation, transport, car rental services, catering or leisure services as regards contracts providing for a specific date or period of performance.

Amendment

(See amendment to Article 19(1)(c).)

Amendment 1046
Emilie Turunen

Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

3. Articles 8 to 19 shall not apply to
distance contracts for the provision of accommodation, transport, car rental services, catering or leisure services as regards contracts providing for a specific date or period of performance.

Amendment

Justification

Distance contracts for the provision of accommodation, transport and car rental services, catering and leisure services are increasingly bought over the Internet and in many cases, traders will not suffer any loss in case of withdrawal.

Or.en

Or.de

(See amendment to Article 19(1)(c).)
Amendment 1047
Zuzana Roithová

Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Articles 8 to 19 shall not apply to deleted
distance contracts for the provision of accommodation, transport, car rental services, catering or leisure services as regards contracts providing for a specific date or period of performance.

Or.en

Amendment 1048
Catherine Stihler

Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Articles 8 to 19 shall not apply to deleted
distance contracts for the provision of accommodation, transport, car rental services, catering or leisure services as regards contracts providing for a specific date or period of performance.

Or.en

Justification

Currently the information requirements and the right to withdraw do not apply to distance contracts for the provision of accommodation, transport and car rental services, catering and leisure services. We don’t believe this exemption is justified given the increasing popularity of internet sales of such service and that it’s unlikely a trader will suffer any loss where a consumer withdraws from a contract in many cases (e.g. long-term bookings).
Amendment 1049
Cornelis de Jong

Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

3. Articles 8 to 19 shall not apply to distance contracts for the provision of accommodation, transport, car rental services, catering or leisure services as regards contracts providing for a specific date or period of performance.

Amendment

Or.en

Amendment 1050
Ashley Fox

Proposal for a directive
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

3a. Member States may choose not to apply Articles 8 to 19 to off premises contracts up to a specified amount. The amount may not exceed EUR 60.

Amendment

Or.en

Justification

Directive 85/577/EEC currently permits Member States to choose to exclude from their national legislation off premises contracts under which the total payments to be made do not exceed a value of 60 Euros, as low value purchases do not justify the increased cost to business of compliance and enforcement. According to the European Commission, a majority of Member States have chosen to apply a monetary threshold for off premises contracts.

Amendment 1051
Malcolm Harbour

Proposal for a directive
Article 8 – paragraph 1 a (new)
Text proposed by the Commission

Amendment

1a. Member States may decide that this Chapter shall not apply to an off premises contract the value of which, or the aggregate value of such contracts entered into on the same occasion, is up to Euro 100.

Or.en

Amendment 1052
Robert Rochefort
Proposal for a directive
Article 20 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Member States may maintain or introduce, in their national law, more stringent provisions than those laid down in this Article, in order to ensure a higher level of consumer protection.

Or.fr

Justification

This amendment makes it clear that, as regards Article 20, minimum harmonisation is to apply.

Amendment 1053
Zuzana Roithová
Proposal for a directive
Article 20 a (new)

Text proposed by the Commission

Amendment

Article 20 a

Articles 8 to 19 shall apply to distance
contracts for the provision of accommodation, transport, car rental services, catering or leisure services, if these contracts providing for a specific date or period of performance, which are more than 60 days after conclusion of these contracts.

Or.en

Amendment 1054
Damien Abad, Constance Le Grip

Proposal for a directive
Article 20 a (new)

Text proposed by the Commission

Amendment

Article 20a

Should a Member State note that a proven risk of prejudice to the consumer has arisen as a result of developments in market practices, it may take the necessary national measures to remedy the situation. It shall immediately inform the Commission and the other Member States thereof and give reasons for its decision.

In its report on the application of this directive, as provided for in Article […] , the Commission shall consider in particular whether this directive should be amended in order to establish appropriate mechanisms at Union level to deal with the new market practices that justified the introduction of national measures.

Or.fr

Justification

In the context of the maximum harmonisation provided for in Chapters II and III, a safeguard clause should be introduced, enabling Member States to take emergency measures in response to specific new practices on the market. Such measures should be notified to the Commission and the other Member States to ensure that they do not constitute obstacles to the internal market.
Amendment 1055
Catherine Stihler
Proposal for a directive
Article 20 a (new)

*Text proposed by the Commission*

**Article 20a**

*With regard to articles 21-29a, unless indicated differently in this Directive, 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.*

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Amendment 1056
Catherine Soullie
Proposal for a directive
Article 20 a (new)

*Text proposed by the Commission*

**Article 20a**

*Member States may not maintain or introduce, in their national law, provisions diverging from those laid down in Articles 1 to 20, including more or less stringent provisions intended to ensure a different level of consumer protection.*

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Amendment 1057
Kurt Lechner
Proposal for a directive
Chapter 4 – title
Proposal for a directive
Article 21

Text proposed by the Commission

Other consumer rights specific to sales contracts deleted

Amendment 1058
Kurt Lechner

Proposal for a directive
Article 21

Text proposed by the Commission

Scope deleted

1. This Chapter shall apply to sales contracts. Without prejudice to Article 24(5), where the contract is a mixed-purpose contract having as its object both goods and services, this Chapter shall only apply to the goods.

2. This Chapter shall also apply to contracts for the supply of goods to be manufactured or produced.

3. This Chapter shall not apply to the spare parts replaced by the trader when he has remedied the lack of conformity of the goods by repair under Article 26.

4. Member States may decide not to apply this Chapter to the sale of second-hand goods at public auctions.

Amendment 1059
Emilie Turunen

Proposal for a directive
Article 21 – paragraph 1
1. This Chapter shall apply to sales contracts. **Without prejudice to Article 24(5), where the contract is a mixed-purpose contract having as its object both goods and services, this Chapter shall only apply to the goods.**
both goods and services.

1a. Articles 23a and 23b shall also apply to service contracts and mixed-purpose contracts having as their object both goods and services.

Justification

Additional provisions on mixed-purpose contracts. Where the contract is a mixed-purpose contract having as its object both goods and services, the consumer should be entitled to have the contract as a whole rescinded if he is unable to draw significant benefit from the service without being in possession of the good attaching thereto. This amendment is also aimed at being consistent with new Articles 23a and 23b.

Amendment 1062
Emilie Turunen

Proposal for a directive
Article 21 – paragraph 1 a (new)

Text proposed by the Commission

1a. Article 23 a (new) shall apply to service contracts and mixed-purpose contracts having as their object both goods and services

Amendment

Justification

the proposed new rule on the duration of contracts (article 23 b new) should apply to both sales and services contracts.

Amendment 1063
Robert Rochefort

Proposal for a directive
Article 20 a (new) (after the title ‘Chapter IV – Other consumer rights specific to sales contracts’)
Text proposed by the Commission

Amendment

Article 20a

Unless otherwise provided for in this chapter, Member States may maintain or introduce in their national law more stringent provisions than those laid down in this chapter, in order to ensure a higher level of consumer protection.

Or.fr

Justification

This amendment makes it clear that, as regards Chapter IV, minimum harmonisation is to apply, unless otherwise provided for.

Amendment 1064
Damien Abad

Proposal for a directive
Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States may maintain or introduce in their national law provisions diverging from those laid down in this chapter, in so far as this is necessary to ensure a higher level of consumer protection.

Or.fr

Justification

Chapter IV must provide for minimum harmonisation in order to raise the minimum level of protection in the EU whilst allowing Member States which have a higher level of protection to maintain this level.
Amendment 1065
Andreas Schwab
Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission
2. This Chapter shall also apply to contracts for the supply of goods to be manufactured or produced.

Amendment
deleted

Or.de

Justification
As regards Article 21(2), see amendment to Article 2(3), second sentence.

Amendment 1066
Robert Rochefort
Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission
2. This Chapter shall also apply to contracts for the supply of goods to be manufactured or produced.

Amendment
2. For the purposes of this Directive, contracts for the supply of goods to be manufactured or produced shall also be defined as sales contracts.

Or.fr

Justification
Drafting clarification.

Amendment 1067
Damien Abad, Philippe Juvin
Proposal for a directive
Article 21 – paragraph 2
2. This Chapter shall also apply to contracts for the supply of goods to be manufactured or produced.

2. For the purposes of this Directive, contracts for the supply of goods to be manufactured or produced shall also be defined as sales contracts.

Amendment 1068
Evelyne Gebhardt
Proposal for a directive
Article 21 – paragraph 2 a (new)

2a. This Chapter shall not apply to electricity, except Articles 22 and 23.

Justification
Having in mind the nature of the good, it would not make sense to include electricity in chapter IV, as electricity cannot be replaced or repaired. It is however included in the other chapters.

Amendment 1069
Robert Rochefort
Proposal for a directive
Article 21 – paragraph 2 a (new)

2a. This chapter shall apply without prejudice to any rights which an injured party may have according to a special liability system existing in national law.
Justification

This amendment is necessary in view of the specific nature of the building and construction sector. It is important to avoid the provisions of this chapter adversely affecting or terminating rights which injured parties may currently have according to a special liability system existing in the national laws of Member States.

Amendment 1070
Damien Abad

Proposal for a directive
Article 21 – paragraph 2 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a. This chapter shall apply without prejudice to any rights which an injured party may have according to a special liability system existing in national law.</td>
<td></td>
</tr>
</tbody>
</table>

Justification

Given the sensitive and specific nature of the building sector, the constructor's warranty should be excluded from the proposal's scope.

Amendment 1071
Kerstin Westphal

Proposal for a directive
Article 21 – paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. This Chapter shall not apply to the spare parts replaced by the trader when he has remedied the lack of conformity of the goods by repair under Article 26.</td>
<td>deleted</td>
</tr>
</tbody>
</table>

Or.de
Amendment 1072
Emilie Turunen

Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission  Amendment

3. This Chapter shall not apply to the deleted
spare parts replaced by the trader when he
has remedied the lack of conformity of the
goods by repair under Article 26.

Justification

This exclusion of spare parts is not understandable. When the trader repairs a good making
use of spare parts, the goods should be fit for use. If the spare parts themselves are defective
the consumer of course should be entitled to a guarantee.

Amendment 1073
Anja Weisgerber

Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission  Amendment

3. This Chapter shall not apply to the deleted
spare parts replaced by the trader when he
has remedied the lack of conformity of the
goods by repair under Article 26.

Justification

The directive should also contain provisions on inadequate remedy. The following
arrangements would appear appropriate: in cases where a product is replaced, the warranty
and presumption periods should begin afresh when the replacement product is delivered; in
cases where a product is repaired, the warranty period should be extended by an appropriate
period; as regards spare parts used in effecting a repair, the trader should be liable until the
expiry of the warranty period for the purchased product, and at least for six months following
completion of the repair.
Amendment 1074
Sylvana Rapti, Konstantinos Poupakis

Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission
3. This Chapter shall not apply to the spare parts replaced by the trader when he has remedied the lack of conformity of the goods by repair under Article 26.

Or.el

Amendment 1075
Andreas Schwab, Wim van de Camp

Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission
3. This Chapter shall not apply to the spare parts replaced by the trader when he has remedied the lack of conformity of the goods by repair under Article 26.

3. This Chapter shall not apply to:

(a) electricity;
(b) water and gas where they are not put up for sale in a limited volume or set quantity.

Or.de

Justification
This amendment replaces Amendment 130.

Amendment 1076
Lara Comi

Proposal for a directive
Article 21 – paragraph 3
3. This Chapter shall not apply to the spare parts replaced by the trader when he has remedied the lack of conformity of the goods by repair under Article 26.

3. This chapter shall not apply to:

a) electricity;
b) water and gas, if they are not put up for sale in a limited volume or set quantity;
c) the spare parts replaced by the trader when he has remedied the lack of conformity of the goods but repair under Article 26.

Justification

Spare parts should fall within the directive's scope so as to prevent lower-quality replacement parts being used.
4. Member States may decide not to apply this Chapter to the sale of second-hand goods at public auctions.

Amendment 1079
Cornelis de Jong

Proposal for a directive
Article 21 – paragraph 4

Text proposed by the Commission
4. Member States may decide not to apply this Chapter to the sale of second-hand goods at public auctions.

Or.en

Amendment 1080
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 21 a (new)

Text proposed by the Commission

Article 21a
With regard to Articles 21 to 29, unless otherwise stated in this Directive, Member States may enact or maintain in force more stringent provisions, in accordance with the Treaty, in the area covered by
this Directive, so as to ensure a higher level of protection for consumers.

Amendment 1081
Anja Weisgerber
Proposal for a directive
Article 22

Text proposed by the Commission
Amendment

Delivery

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Justification

With regard to the 'maximum of thirty days' rule for deliveries, provided for in paragraph 1, there are not only practical, but also fundamental misgivings. There is no reason to depart, to the consumer's detriment, from the generally applicable principle of immediate performance of obligations. It goes without saying that parties may agree otherwise, on a case-by-case basis, but the proposed provision would turn legal reality on its head. Article 22 should therefore be deleted.

Amendment 1082
Kurt Lechner
Proposal for a directive
Article 22
Text proposed by the Commission

Amendment

Delivery

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Or.de

Amendment 1083
Emilie Turunen

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

Amendment

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, immediately after the conclusion of the contract and in any case within a maximum of thirty days from the day of the conclusion of the contract.

Or.en

Justification

Paragraph 1 stipulates when the trader must perform his main obligation under the contract. In the case of a ‘traditional’ sales contract, concluded in a regular shop, the delivery takes place immediately. The maximum period of 30 days is not appropriate for the “normal” sales contracts.
Amendment 1084
Liem Hoang Ngoc

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission
1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

Amendment
1. The trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, no later than the delivery deadline agreed between the parties when concluding the contract.

Or.fr

Justification
It is not necessarily in the consumer’s interests to have the goods delivered within a maximum of thirty days. He may in some cases prefer them to be delivered at a later date. The best arrangement is therefore that the delivery deadline be agreed between the consumer and the trader.

Amendment 1085
Evelyne Gebhardt

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission
1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

Amendment
1. Unless the parties have agreed otherwise, the trader shall deliver the goods immediately after the conclusion of the contract by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.
**Amendment 1086**

Robert Rochefort

Proposal for a directive
Article 22 – paragraph 1

*Text proposed by the Commission*

1. *Unless the parties have agreed otherwise*, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, *within a maximum of thirty days from the day of the conclusion of the contract.*

*Amendment*

1. The trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer. *Where delivery is not immediate, the trader shall indicate the deadline within which he undertakes to deliver the goods.*

*Member States may not maintain or introduce in their national law provisions diverging from those laid down in this article, including more or less stringent provisions in order to ensure a different level of consumer protection.*

**Or.fr**

**Amendment 1087**

Matteo Salvini

Proposal for a directive
Article 22 – paragraph 1

*Text proposed by the Commission*

1. *Unless the parties have agreed otherwise*, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, *within a maximum of thirty days from the day of the conclusion of the contract.*

*Amendment*

1. The parties shall agree on the time period within which the trader is required to deliver the goods to the consumer or to a third party, other than the carrier and indicated by the consumer.

**Or.it**
Amendment 1088
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

Amendment

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer immediately after the conclusion of the contract and in any case within a maximum of thirty days from the day of the conclusion of the contract. In case of agreement on the day of delivery, the consumer may choose the day of delivery which shall not exceed a period of thirty days from the day of the conclusion of the contract.

Or.el

Amendment 1089
Róża Gräfin von Thun und Hohenstein

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

Amendment

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, immediately after the contract has been concluded, within a maximum of thirty days from the day of the conclusion of the contract.

Or.pl
Justification

In order to obviate any delays in the delivery of goods, where possible, the goods should be handed over to the consumer immediately after the contract has been concluded.

Amendment 1090
Cornelis de Jong

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. Unless the parties have agreed otherwise, the trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

Amendment

1. Unless the parties have agreed otherwise, the trader shall deliver the goods immediately, by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer. **In any case the trader shall deliver the goods** within a maximum of thirty days from the day of the conclusion of the contract.

Or.en

Amendment 1091
Catherine Soullie, Amalia Sartori

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. **Unless the parties have agreed otherwise, the** trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, within a maximum of thirty days from the day of the conclusion of the contract.

Amendment

1. The trader shall deliver the goods by transferring the material possession of the goods to the consumer or to a third party, other than the carrier and indicated by the consumer, **on the day agreed between the trader and the consumer**, within a maximum of thirty days from the day of the conclusion of the contract.

Or.en
Amendment 1092
Jürgen Creutzmann

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

deleted

Or.de

Amendment 1093
Liem Hoang Ngoc

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid or termination of the contract within a period of no less than seven days from the date of delivery provided for in paragraph 1.

Or.fr

Justification

It is in the consumer’s interests to allow for the possibility of a longer period than seven days.

Amendment 1094
Emilie Turunen

Proposal for a directive
Article 22 – paragraph 2
Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where the trader has failed to fulfil his obligations to deliver at the agreed moment, the consumer shall be entitled to either immediately rescind the contract or to receive the good at a later date to be determined by the consumer.

Or.en

Justification

Under the current draft of paragraph 2, the fact that the trader is late in delivering the goods would oblige the trader to pay back any payments made in advance, even if the trader delivers afterwards and the consumer wants to be delivered at that time. On the contrary, when goods are not delivered on time, it is important that the consumer has the choice whether to accept a later delivery (if he still wants the goods) or to rescind the contract (if he doesn’t want the goods).

Amendment 1095
Evelyne Gebhardt

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where the trader has failed to fulfil his obligations in meeting the agreed delivery date, the consumer shall be entitled to cancel the contract or set a new final deadline, up until which the good has to be delivered to him/her by the trader.

Or.en

Amendment 1096
Robert Rochefort

Proposal for a directive
Article 22 – paragraph 2
Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where delivery does not take place within seven days of the delivery date indicated by the trader in accordance with paragraph 1, the consumer shall be entitled to rescind the contract and claim a refund of any sums paid under the contract.

The contract shall be deemed to be terminated on the date the trader receives a letter from the consumer informing him of his decision, if the delivery has not taken place in the meantime.

The trader shall be required to reimburse all sums paid under the contract as soon as possible, and no more than seven days after receiving the letter rescinding the contract.

This paragraph shall be without prejudice to the rights of the consumer to claim damages.

Member States may not maintain or introduce in their national law provisions diverging from those laid down in this article, including more or less stringent provisions in order to ensure a different level of consumer protection.

Or.fr

Justification

As the trader himself has indicated the delivery deadline, it would seem superfluous for the consumer to ask the trader to go ahead with the delivery where the trader has failed to fulfil his obligations to deliver. The proposed arrangements therefore leave the consumer free to decide whether or not to terminate the contract on these grounds if the delivery has not taken place in the meantime.

Amendment 1097
Damien Abad, Philippe Juvin, Constance Le Grip

Proposal for a directive
Article 22 – paragraph 2
2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

---

**Amendment**

2. Where delivery does not take place within seven days of the established delivery date, as indicated in paragraph 1, the consumer shall be entitled to rescind the contract and claim a refund of any sums paid under the contract.

The contract shall be deemed to be terminated on the date the trader receives a letter from the consumer informing him of his decision, if the delivery has not taken place in the meantime.

The trader shall be required to reimburse all sums paid under the contract as soon as possible, and no more than seven days after receiving the letter rescinding the contract.

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**Justification**

The obligation on the consumer to formally request that the trader deliver is a restriction of consumer protection. This requirement may prove too much of a disincentive for many consumers.

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**Amendment 1098**

Othmar Karas

Proposal for a directive

Article 22 – paragraph 2

**Text proposed by the Commission**

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

---

**Amendment**

2. If the trader has failed to fulfil his obligations to deliver, the consumer may call upon him, on a durable medium, to make the delivery within a period appropriate to the circumstances and notify him of his intention to withdraw from the contract if delivery does not take place. If, upon expiry of that period, no action has been taken, the consumer may withdraw from the sales contract. A
consumer who has already paid the price shall be entitled to a refund of any sums paid within seven days from the day on which he withdrew from the contract.

Or.de

Justification

An appropriate extension should be set before a contract can be rescinded. Damages claims for late delivery are possible under national law. In this connection, then, a clear distinction should be made - not in 'harmonised' paragraph 2 of Article 22, but, rather, in new paragraph 2a of Article 22.

Amendment 1099
Matteo Salvini

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid.

Or.it

Amendment 1100
Andreas Schwab, Wim van de Camp, Róża Gräfin von Thun und Hohenstein, Rafał Trzaskowski

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. If the trader has failed to fulfil his obligations to deliver, the consumer may call upon him, on a durable medium, to make the delivery within a period appropriate to the circumstances and notify him of his intention to withdraw
from the contract if delivery does not take place. If, upon expiry of that period, no action has been taken, the consumer may withdraw from the sales contract. A consumer who has already paid the price shall be entitled to a refund of any sums paid within seven days from the day on which he withdrew from the contract. This shall be without prejudice to the rights of the consumer to claim damages.

Or.de

Justification

This amendment replaces Amendment 132.

Amendment 1101
Konstantinos Poupakis, Sylvana Rapti

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where the trader has failed to fulfil his obligations to deliver on time as provided for in paragraph 1 and where responsibility for this clearly lies with the trader, the consumer shall be entitled under national law to rescind the contract and seek a refund of any sums paid within a reasonable period of time and in no case later than seven days from the date on which the trader was informed of the consumer's decision to rescind the contract.+

Or.el

Amendment 1102
Małgorzata Handzlik

Proposal for a directive
Article 22 – paragraph 2
2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. Where the trader has failed to fulfil his obligations to deliver, the consumer may call upon him, on a durable medium, to make the delivery within a period appropriate to the circumstances, which may not be less than seven days. If, on expiry of that period, no action has been taken, it shall be assumed that the consumer has withdrawn from the contract unless, prior to such expiry, the consumer states on a durable medium that he has not availed himself of his right to withdraw from the contract; any such statement shall have legal effect if it was sent before the period expired. A consumer who has already made payment shall be entitled to a refund of any sums paid within seven days from the day on which he withdrew from the sales contract. This shall be without prejudice to the consumer's right to claim damages.

Or.pl

Justification

The rapporteur's proposed changes have been supplemented so as to prevent consumers who are prepared to wait longer for the goods to be delivered from being forced to withdraw from a contract. Full level of harmonisation.

Amendment 1103
Morten Lokkegaard

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. Where the trader has failed to fulfil his obligations to deliver, the consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery provided for in paragraph 1.

Amendment

2. If the trader has failed to fulfil his obligations to deliver, the consumer may call upon him, on a durable medium, to make the delivery within a period appropriate to the circumstances, which
may not be less than seven days, and notify him of his intention to withdraw from the contract if delivery does not take place. If, upon expiry of that period, no action has been taken, it shall be assumed that the consumer has withdrawn from the sales contract. A consumer who has already paid the price shall be entitled to a refund of any sums paid within seven days from the day on which he withdrew from the contract. This shall be without prejudice to the rights of the consumer to claim damages.

If the delay is not minor, the consumer is entitled to terminate the contract immediately without giving the trader prior notice according to Article 22 (2).

Amendment 1104
Emilie Turunen

Proposal for a directive
Article 22 – paragraph 2 a (new)

_text proposed by the Commission_

Amendment

2a. The consumer may rescind the contract under paragraphs 2 or 2a (new) by giving notice to the trader in writing or on another durable medium or by telephone. The trader is required to refund any sums paid within 7 days from the date he receives the consumer’s notice.

Amendment 1105
Emilie Turunen

Proposal for a directive
Article 22 – paragraph 2 b (new)
Amendment 1106
Evelyne Gebhardt

Proposal for a directive
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The consumer is legally entitled to cancel the contract, if the good is once again not delivered until the new deadline set in paragraph 2

Or.en

Amendment 1107
Evelyne Gebhardt

Proposal for a directive
Article 22 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. According to paragraph 2 or 3, the consumer is entitled to cancel the contract by informing the trader through a written form or any other durable medium. The consumer shall be entitled to a refund of any sums paid within seven days from the date of delivery.

Or.en
Amendment 1108
Othmar Karas

Proposal for a directive
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

2a. If the trader fails to deliver within the appropriate period referred to in paragraph 2, Member States may adopt or maintain provisions of national law providing for other or additional remedies for the consumer, such as, for example, claims for damages.

Or.de

Justification

Damages claims for late delivery are possible under national law. In this connection, then, a clear distinction should be made - not in 'harmonised' paragraph 2 of Article 22, but, rather, in new paragraph 2a of Article 22.

Amendment 1109
Emilie Turunen

Proposal for a directive
Article 22 – paragraph 2 c (new)

Text proposed by the Commission

2c. If arrangements have agreed between the consumer and trader for delivery within a particular period, and delivery does not take place within this period, the consumer has the right to rescind the contract.

Or.en

Justification

For example, if a good or service is required by the consumer before a certain date and it has been agreed in advance with the trader to supply such goods/services before this date, and this has not happened, the consumer has no need for such a good/service. Therefore the consumer should be allowed to rescind the contract.
Amendment 1110
Andreas Schwab

Proposal for a directive
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If the trader fails to deliver within the appropriate period referred to in paragraph 2, Member States may adopt or maintain provisions of national law providing for additional remedies for the consumer.

Or.de

Justification

This amendment replaces Amendment 133.

Amendment 1111
Mitro Repo, Eija-Riitta Korhola

Proposal for a directive
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If the contract concerns goods to be manufactured or acquired especially for the consumer, in accordance with his instructions or wishes, and the trader cannot use the goods in some other way without incurring a significant loss, the consumer may rescind the contract on account of a delay on the part of the trader only if from his point of view the purpose of the contract is essentially unattainable on account of the delay. This shall be without prejudice to the right of the consumer to claim damages.

Or.fi
Justification

It would be desirable for goods which are ordered to be subject to separate rules. The provision would particularly protect small businesses, for which a primary right of rescission could be unreasonably harsh.

Amendment 1112
Catherine Soullie, Amalia Sartori

Proposal for a directive
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

2a. Member States may, where necessary in order to ensure a higher level of consumer protection, maintain or introduce, in their national law, provisions diverging from those laid down in Article 22.

Amendment

Or.en

Amendment 1113
Kyriacos Triantaphyllides

Proposal for a directive
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

2a. Member States may, where necessary in order to ensure a high level of consumer protection, maintain or introduce under their national law provisions diverging from those laid down in Article 22.

Amendment

Or.el

Amendment 1114
Zuzana Roithová

Proposal for a directive
Article 22 a (new)
Text proposed by the Commission

Amendment

Article 22a

Right to delivery of goods or supply of services to another Member State

In the case of a distance contract, the consumer shall be entitled to require the trader to deliver the goods or supply the service to another Member State. The trader is required to meet the consumer's request if this is technically feasible and if the consumer is prepared to bear all the related costs. The trader must in all cases state these costs in advance.

Or.cs

Amendment 1115
Emilie Turunen

Proposal for a directive
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22 a

Payment

1. The trader will not withdraw or charge the full sum for the goods/services from the customer's account or credit card until the goods/services have been delivered. Where the goods/services amount to a substantial sum or are custom made to order, the trader and consumer may agree between them in an advance payment of a deposit.

2. Traders shall offer consumers at least one means of payment free of charge.

3. Member States shall prohibit traders from charging customers with fees that exceed the cost borne by the trader for the use of such means.
Amendment 1116
Kurt Lechner

Proposal for a directive
Article 23

Text proposed by the Commission

Passing of risk

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the material possession of the goods.

2. The risk referred to in paragraph 1 shall pass to the consumer at the time of delivery as agreed by the parties, if the consumer or a third party, other than the carrier and indicated by the consumer has failed to take reasonable steps to acquire the material possession of the goods.

Amendment

Passing of risk

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the material possession of the goods.

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the actual material possession of the goods.

Justification

In many Member States, a distinction is made in property law between types of possession.
For instance, possession can also be transferred through constructive delivery or assignment of a claim for restitution. Actual possession means physical possession through gaining physical control over an item of property.

Amendment 1118
Damien Abad
Proposal for a directive
Article 23 – paragraph 1

**Text proposed by the Commission**

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the material possession of the goods.

**Amendment**

1. The risk of loss of or damage to the goods shall pass to the consumer or a third party, other than the carrier and indicated by the consumer, on delivery.

**Justification**

Simplification of the initial Commission proposal.

Amendment 1119
Othmar Karas
Proposal for a directive
Article 23 – paragraph 1

**Text proposed by the Commission**

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the material possession of the goods.

**Amendment**

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the material possession of the goods. The risk shall pass to the consumer, upon delivery to the carrier, if the carrier was commissioned to carry the goods by the consumer or if the consumer selected the carrier.

Member States may not maintain or introduce provisions of national law.
which depart from the provisions of this Article in order to guarantee a different level of consumer protection.

Justification

It is not appropriate that, as provided for in the Commission proposal, risk should not be passed on, upon delivery to the carrier, even when the consumer himself arranges for the goods to be collected by a carrier or when the consumer has selected the carrier.

Amendment 1120
Philippe Juvin, Damien Abad, Constance Le Grip

Proposal for a directive
Article 23 – paragraph 1

Text proposed by the Commission

1. The risk of loss of or damage to the goods shall pass to the consumer when he or a third party, other than the carrier and indicated by the consumer has acquired the material possession of the goods.

Amendment

1. The risk of loss of or damage to the goods shall pass to the consumer, or a third party other than the carrier and indicated by the consumer, on delivery. In the case of off-premises contracts, this provision shall not apply to the period referred to in Article 12(4), during which the contract is not enforceable.

Justification

It is important to ensure that the risk transfer does not take place during the period referred to in Article 12(4), as amended, as regards off-premises contracts. During this period, Member States may prohibit the parties from performing their obligations.

Amendment 1121
Robert Rochefort

Proposal for a directive
Article 23 – paragraph -1 (new)
1. Member States may not maintain or introduce in their national law provisions diverging from those laid down in this article, including more or less stringent provisions in order to ensure a different level of consumer protection.

Amendment 1122
Liem Hoang Ngoc
Proposal for a directive
Article 23 – paragraph 2

2. The risk referred to in paragraph 1 shall pass to the consumer at the time of delivery as agreed by the parties, if the consumer or a third party, other than the carrier and indicated by the consumer has failed to take reasonable steps to acquire the material possession of the goods.

Amendment 1123
Damien Abad, Philippe Juvin
Proposal for a directive
Article 23 – paragraph 2

2. The risk referred to in paragraph 1 shall pass to the consumer at the time of delivery as agreed by the parties, if the consumer or a third party, other than the carrier and indicated by the consumer has failed to take reasonable steps to acquire the material possession of the goods.

2. Member States may lay down additional national provisions governing the passing of risk if the consumer has failed to take all the necessary steps to take delivery of the goods.
A minimum harmonisation clause should be introduced to ensure that certain provisions of systems affording greater consumer protection in the matter of passing of risk can be maintained.

Amendment 1124
Robert Rochefort

Proposal for a directive
Article 23 – paragraph 2

Text proposed by the Commission

2. The risk referred to in paragraph 1 shall pass to the consumer at the time of delivery as agreed by the parties, if the consumer or a third party, other than the carrier and indicated by the consumer has failed to take reasonable steps to acquire the material possession of the goods.

Amendment

2. The risk referred to in paragraph 1 shall pass to the consumer at the time of delivery as agreed by the parties, if the consumer or a third party, other than the carrier and indicated by the consumer has *manifestly* failed to take reasonable steps to acquire the material possession of the goods.

Justification

Passing of risk is essential in that it marks the end of the obligation on the trader to ensure that the goods are kept in good condition. Passing the risk to the consumer, as provided for here, must go hand-in-hand with an assurance that the consumer has manifestly failed to take reasonable steps to acquire possession of the good.

Amendment 1125
Mitro Repo, Eija-Riitta Korhola

Proposal for a directive
Article 23 – paragraph 2

Text proposed by the Commission

2. The risk referred to in paragraph 1 shall pass to the consumer at the time of delivery as agreed by the parties, if the consumer or a third party, other than the

Amendment

2. If the consumer *does not in sufficient time* collect or take delivery of goods which are being held at his disposal, the consumer shall bear the risk that the
carrier and indicated by the consumer has failed to take reasonable steps to acquire the material possession of the goods. goods may deteriorate on account of their natural characteristics after the trader has done what delivery of the goods requires of him.

Justification

Risks should in principle always be borne by the party to a contract who actually has the goods in his possession. This party has the best opportunity to take care of the goods in such a way as to prevent them from being lost or damaged. The only exception would be for goods which by their nature are prone to spoilage (typically food, fresh flowers and plants. etc.), in the case of which the consumer should bear the risk of spoilage if he fails to collect the goods, or to take delivery of them, in accordance with the contract.

Amendment 1126
Evelyne Gebhardt

Proposal for a directive Article 23 – paragraph 2 a (new)

Text proposed by the Commission Amendment

2 a. Contracts concluded with a consumer shall not exceed a contractual obligations timeframe of over twelve months.

Amendment 1127
Evelyne Gebhardt

Proposal for a directive Article 23 – paragraph 2 b (new)

Text proposed by the Commission Amendment

2 b. After twelve months the consumer shall be able to terminate the contract at any given time. The termination can be subject to prior notice, which shall not exceed two months.
Amendment 1128
Andreas Schwab, Frank Engel

Proposal for a directive
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States may not maintain or introduce provisions of national law which depart from the provisions of this Article.

Or.de

Amendment 1129
Mitro Repo, Eija-Riitta Korhola

Proposal for a directive
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If, because the consumer reports a lack of conformity, goods are returned to the trader for inspection or correction of the nonconformity, the trader shall bear the risk in respect of the goods until the goods are delivered back to the consumer.

Or.fi

Justification

Risks should in principle always be borne by the party to a contract who actually has the goods in his possession. This party has the best opportunity to take care of the goods in such a way as to prevent them from being lost or damaged. The only exception would be for goods which by their nature are prone to spoilage (typically food, fresh flowers and plants, etc.), in the case of which the consumer should bear the risk of spoilage if he fails to collect the goods, or to take delivery of them, in accordance with the contract.
Text proposed by the Commission

Article 23a

Duration of contracts

1. Contracts concluded with consumers shall not stipulate a commitment period that exceeds 6 months.

2. Beyond 6 months consumers can terminate the contract at any time. Termination can be subject to a previous notice that cannot exceed 2 months.

Justification

In the case of on-going contracts, the ability for consumers to change provider/supplier easily is crucial. The increasing length of contracts (sometimes more than 1 year) captures consumers into the same contract with the same provider for too long a time. This is detrimental for competition and ultimately has an effect on prices and quality of services.

Text proposed by the Commission

Article 23a

Duration of contracts

1. Without prejudice of the provisions of national law on unfair terms, contracts concluded with consumers may not provide for an initial commitment period of more than twelve months.

2. At the end of the initial one-year
commitment period, consumers may terminate the contract at any time. Rescission of the contract may be subject to a period of prior notice, which may not exceed two months.

Justification

This amendment is aimed at ensuring that consumers are not bound, from the outset, to use the same trader over excessively long periods of time, preventing them from changing service provider during long periods, which may in some cases restrict the actual conditions of competition and, as a result, have an impact on quality and prices.

Amendment 1132
Catherine Stihler

Proposal for a directive
Article 23 a (new)

Text proposed by the Commission

Amendment
Article 23a

Payment means
1. Traders shall offer consumers at least one means of payment free of charge.
2. Member States shall prohibit traders to charge consumers with fees that exceed the cost born by the trader for the use of such means.

Or.en

Amendment 1133
Robert Rochefort

Proposal for a directive
Article 23 b (new)

Text proposed by the Commission

Amendment
Article 23b
Member States shall prohibit traders from charging consumers for the use of means of payment at rates in excess of the costs actually incurred by the traders for the use of these means of payment.

Or.fr

Amendment 1134
Christel Schaldemose
Proposal for a directive
Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

Duration of contracts
1. Without prejudice to national law on unfair terms, contracts concluded with consumers shall not stipulate an initial commitment period that exceeds 12 months

2. After the elapse of the 12 month-period consumers can terminate the contract at any time. Termination can be subject to a previous notice that cannot exceed 2 months.

Or.en

Justification

In the case of on-going contracts, the ability for consumers to change provider/supplier easily is crucial. The increasing length of contracts (sometimes more than 1 year) captures consumers into the same contract with the same provider for too long a time. This is detrimental for competition and ultimately has an effect on prices and quality of services.