

**Question for written answer E-007372/2012
to the Commission**

Rule 117

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Subject: Respect for competition

European legislation, in the shape of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market, directly protects the economic interests of consumers against unfair commercial practices of businesses. It follows that it also protects, indirectly, the legitimate interests of businesses against rivals which fail to observe the rules of the directive, thus making for fair competition in the area that it coordinates. The object is to help the internal market to function properly and ensure that European consumers are protected to a high degree.

In December 2011 the Italian competition and market authority fined Apple EUR 900 000 for failing to apply the statutory two-year warranty to be offered by the seller.

More recently, in Spain, the Organisation of Consumers and Users (OCU) has lodged a complaint against apple with the Madrid Community Consumer Affairs Office; Apple is accused of infringing consumers' rights by offering a warranty lasting only one year, whereas the law requires a two-year warranty. The OCU and its European sister organisations in the European Consumers' Organisation (BEUC), specifically those in Italy, Belgium, Portugal, Luxembourg, Germany, the Netherlands, Poland, Slovenia, Denmark, and Greece, maintain that Apple and its retailers are following a clear and deliberate commercial policy in which they give to understand that products are guaranteed for just one year and any extension in the warranty has to be purchased separately.

Apple's practice is to offer a free one-year warranty that can be extended to two years on payment of a charge (EUR 79 in Belgium): this is contrary to European legislation. Apple does not tell consumers that they are covered, free of charge, by a two-year warranty and to that extent alters their economic behaviour, since its commercial practice misleads them into taking a wrong decision.

Without prejudice to the powers of the Member States to enforce and oversee EU legislation, the Commission acts as 'guardian of the Treaties' and in that capacity can and must impose penalties on citizens and companies for breaking the law.

Bearing in mind that Directive 2005/29/EC is also intended to protect, albeit indirectly, the legitimate interests of businesses against rivals which fail to observe its rules, we call on the Competition Commissioner, Joaquín Almunia, to answer the following questions:

1. Is the Commission aware of the unfair commercial practices to which Apple is resorting?
2. Will it open an investigation into Apple's commercial practices in Europe?