



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on the Internal Market and Consumer Protection*

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**2011/0284(COD)**

11.7.2013

## **OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council  
on a Common European Sales Law  
(COM(2011)0635 – C7-0329/2011 – 2011/0284(COD))

Rapporteur (\*): Evelyne Gebhardt, Hans-Peter Mayer

(\*) Associated committee – Rule 50 of the Rules of Procedure

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## SHORT JUSTIFICATION

### 1. Introduction

On 11 October 2011 the Commission submitted a proposal for a regulation on a Common European Sales Law (CESL). The objective of the proposal is to improve the establishment and the functioning of the internal market by facilitating cross-border trade for businesses and consumers. It seeks to achieve this objective by means of a Common European Sales Law, a self-standing uniform set of contract law rules including provisions to protect consumers in connection with the sale of goods and digital contents, which is to be considered as a second, optional contract law regime within the national law of each Member State.

In view of the proposal's significance for consumer protection, the Committee on the Internal Market and Consumer Protection (IMCO) has a particularly important role to play. Accordingly the committee is not simply issuing an opinion for the Committee on Legal Affairs (JURI) as the committee responsible under the Rule 50 'associated committees' procedure, but is itself solely responsible in many areas.

As in the committee responsible, so in the IMCO committee two co-rapporteurs were appointed, who have worked closely together in preparing the opinion (including by holding a public hearing and by ordering a quality check on the Commission's impact assessment).

A legal text regulating the rights and duties of two contracting parties should be as clear and precise as possible. This is particularly important when it relates to consumers; scope for differing interpretations should be avoided as far as possible. Consistency with existing rules, particularly the Consumer Rights Directive, also needs to be ensured. Accordingly the co-rapporteurs proposed a number of amendments to clarify the terminology used and align it with existing definitions. Joint amendments are also tabled concerning the contractual conformity of digital contents, the term 'free of charge', and the offer of cure on the termination of the contract.

### 2. Justification for substantial amendments

#### Unsuitability of optional instruments in consumer law

There are fundamental doubts concerning the suitability of the Commission proposal. In consumer contract law, given the asymmetry of information between the parties, the consumer has a particular need for protection and must be able to rely on a high level of protection in the conclusion of sales contracts. Particularly in the field of cross-border online trade, the European legislator therefore has a duty to create reliable rules by the approximation of national law. In the past the bulk of this work was done by Directive 2011/83/EU and similar legislation. Creating an additional, optional instrument, and effectively placing the decision on the choice of instrument in the hands of the trader, would complicate the legal situation and would disadvantage the consumer in particular. The legal uncertainty which could be created by the introduction of an optional sales law represents an avoidable risk for the operation of the single market. The co-rapporteur shares the concerns of a number of experts that, in the absence of case law, it would take many years before the

European Court of Justice had given final rulings on the interpretative issues raised by the Common European Sales Law. Furthermore, an optional instrument would be a departure from the existing successful formula of harmonisation.

### **Criticism of the Commission's Impact Assessment**

The committee is not convinced by the calculation of the transaction costs and assumptions concerning consumer confidence in the Commission's impact assessment. For example, neither the harmonisation effects of the recently adopted Directive 2011/83/EU nor the legislation on alternative dispute resolution mechanisms (ADR and ODR) are taken into account. Accordingly, at the suggestion of one of the co-rapporteurs, a questionnaire was submitted to the European Parliament's IA Unit by the two committees responsible, JURI and IMCO, with a view to carrying out a quality check on the Commission's impact assessment. The results were presented on 22 January 2012 in the JURI committee and largely confirm the co-rapporteur's misgivings. The analysis highlights methodological failings which seriously detract from the meaningfulness of the impact assessment and call into question its value, even taking into account that there is as yet no generally accepted model for calculating transaction costs.

### **Minimum harmonisation of aspects of performance, related services and digital contents**

The committee is therefore unable to support the Commission proposal for an optional CESL. Nevertheless it is convinced of the need for common European rules in the field of consumer contract law. As an alternative to the optional sales law it therefore recommends that the existing, successful process of harmonising EU consumer contract law should be continued and completed. The adoption of Directive 2011/83/EU has left few areas of consumer contract law to be modernised by this proposal for a directive. Account also needs to be taken of developments in online trade by including contracts on digital contents. The committee also takes the view that related services should also be included because of their close links to the sales contract.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation Title

*Text proposed by the Commission*

**REGULATION** OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
*on a Common European Sales Law*

*Amendment*

**DIRECTIVE** OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
*on the harmonisation of certain aspects of  
the obligation relating to the guarantee of  
conformity in connection with consumer  
sales contracts, related services and  
digital content*

#### *Justification*

*The Commission proposal should be turned into a directive on minimum harmonisation of certain aspects of the obligation relating to the guarantee of conformity in connection with consumer sales contracts, related services and digital content. In terms of substance, this is an extension of Directive 2011/83/EU. In the interests of legal certainty, matters already regulated in Directive 2011/83/EU should not be addressed by this text.*

### Amendment 2

#### Proposal for a regulation Recital 1

*Text proposed by the Commission*

(1) There are still considerable bottlenecks to cross-border economic activity that prevent the internal market from exploiting its full potential for growth and job creation. ***Currently, only one in ten traders in the Union exports goods within the Union and the majority of those who***

*Amendment*

(1) There are still considerable bottlenecks to cross-border economic activity that prevent the internal market from exploiting its full potential for growth and job creation. Of ***all the*** obstacles to cross-border trade, tax regulations, administrative requirements, delivery

*do, only export to a small number of Member States. From the range of obstacles to cross-border trade including tax regulations, administrative requirements, difficulties in delivery, language and culture, traders consider the difficulty in finding out the provisions of a foreign contract law among the top barriers in business-to-consumer transactions and in business-to-business transactions. This also leads to disadvantages for consumers due to limited access to goods. Different national contract laws therefore deter the exercise of fundamental freedoms, such as the freedom to provide goods and services, and represent a barrier to the functioning and continuing establishment of the internal market. They also have the effect of limiting competition, particularly in the markets of smaller Member States.*

*difficulties, language and culture have been identified as the greatest barriers. In spite of recently adopted Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights<sup>1</sup>, which harmonises the main aspects of distance contracts, there are still a number of differences between national provisions of consumer contract law. Those differences can be regarded as barriers to the functioning and continuing establishment of the internal market.*

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<sup>1</sup>OJ. L 304, 22.11.2011, p. 64.

#### *Justification*

*The directive should be structured as follows:*

*Chapter 1: Scope and definitions*

*Chapter 2: Conformity and the consumer's remedies*

*Chapter 3: Commercial guarantees*

*Chapter 4: Related services*

*Chapter 5: General provisions*

### **Amendment 3**

#### **Proposal for a regulation**

##### **Recital 2**

*Text proposed by the Commission*

(2) Contracts are the indispensable legal tool for every economic transaction. *However, the need for traders to identify or negotiate the applicable law, to find out about the provisions of a foreign*

*Amendment*

(2) Contracts are the indispensable legal tool for every economic transaction. *It is therefore necessary to complement Directive 2011/83/EU by updating the legal provisions governing certain aspects*

*applicable law often involving translation, to obtain legal advice to make themselves familiar with its requirements and to adapt their contracts to different national laws that may apply in cross-border dealings makes cross-border trade more complex and costly compared to domestic trade. Contract-law-related barriers are thus a major contributing factor in dissuading a considerable number of export-oriented traders from entering cross-border trade or expanding their operations into more Member States. Their deterrent effect is particularly strong for small and medium-sized enterprises (SME) for which the costs of entering multiple foreign markets are often particularly high in relation to their turnover. As a consequence, traders miss out on cost savings they could achieve if it were possible to market goods and services on the basis of one uniform contract law for all their cross-border transactions and, in the online environment, one single website.*

*of the obligation relating to the guarantee of conformity in connection with consumer sales contracts, related services and digital content. This updating process should take account of the needs of the digital economy and the relevant rulings of the Court of Justice of the European Union.*

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Recital 3**

*Text proposed by the Commission*

*Amendment*

*(3) Contract law related transaction costs which have been shown to be of considerable proportions and legal obstacles stemming from the differences between national mandatory consumer protection rules have a direct effect on the functioning of the internal market in relation to business-to-consumer transactions. Pursuant to Article 6 of Regulation 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Regulation (EC) No*

*deleted*

*593/2008), whenever a trader directs its activities to consumers in another Member State the consumer protection provisions of the Member State of the consumer's habitual residence that provide a higher level of protection and cannot be derogated from by agreement by virtue of that law will apply, even where another applicable law has been chosen by the parties. Therefore, traders need to find out in advance whether the consumer's law provides higher protection and ensure that their contract is in compliance with its requirements. In addition, in e-commerce, web-site adaptations which need to reflect mandatory requirements of applicable foreign consumer contract laws entail further costs. The existing harmonisation of consumer law at Union level has led to a certain approximation in some areas. However the differences between Member States' laws remain substantial; existing harmonisation leaves Member States a broad range of options on how to comply with the requirements of Union legislation and where to set the level of consumer protection.*

**Amendment 5**  
**Proposal for a regulation**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) A person should also be considered as a consumer in the case of dual purpose contracts, where the contract is concluded for purposes partly within and partly outside the person's trade and the trade purpose is so limited as not to be predominant in the overall context of the contract.*

*Justification*

*Wording taken over from Recital 17 of the Consumer Rights Directive.*

**Amendment 6**

**Proposal for a regulation  
Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

*(3b) In the frame of the revision of the consumer acquis started in 2004 by the European Commission's Green Paper, the recently adopted Directive 2011/83/EU deals with the most important contract law related areas of consumer distance and doorstep selling transactions. Directive 2011/83/EU will be operational as of mid-2014 and will provide a uniform legal framework for business-to-consumer transactions and in particular for business-to-consumer e-commerce.*

**Amendment 7**

**Proposal for a regulation  
Recital 3 c (new)**

*Text proposed by the Commission*

*Amendment*

*(3c) Approximating consumer contract law through legal harmonization on a high level of protection which applies to all market players is the most appropriate approach to strengthen consumer confidence in cross-border transactions and to facilitate Union wide trade.*

**Amendment 8**

**Proposal for a regulation  
Recital 3 d (new)**

***(3d) The consumer acquis needs to be updated in order to face the challenges of societal and economic developments included the digital economy. Consumers need a framework of solid rights for purchasing safely and on fair conditions within the Single Market. Directive 2011/83/EU provided a review of consumer protection rules mainly in relation to specific selling methods, namely distance and door-step selling. The field of legal guarantees is highly important to consumers and business alike and requires further approximation and modernization which is provided by this Directive.***

## **Amendment 9**

### **Proposal for a regulation**

#### **Recital 4**

*Text proposed by the Commission*

*Amendment*

***(4) The contract-law-related barriers which prevent traders from fully exploiting the potential of the internal market also work to the detriment of consumers. Less cross-border trade results in fewer imports and less competition. Consumers may be disadvantaged by a limited choice of goods at higher prices both because fewer foreign traders offer their products and services directly to them and also indirectly as a result of restricted cross-border business-to-business trade at the wholesale level. While cross-border shopping could bring substantial economic advantages in terms of more and better offers, many consumers are also reluctant to engage in cross-border shopping, because of the uncertainty***

***(4) By bringing the established body of European consumer law up to date with regard to the legal obligation relating to the guarantee of conformity, related services and digital content, a high level of consumer protection will be ensured.***

*about their rights. Some of the main consumer concerns are related to contract law, for instance whether they would enjoy adequate protection in the event of purchasing defective products. As a consequence, a substantial number of consumers prefer to shop domestically even if this means they have less choice or pay higher prices.*

## **Amendment 10**

### **Proposal for a regulation Recital 5**

*Text proposed by the Commission*

*Amendment*

*(5) In addition, those consumers who want to benefit from price differences between Member States by purchasing from a trader from another Member State are often hindered due to a trader's refusal to sell. While e-commerce has greatly facilitated the search for offers as well as the comparison of prices and other conditions irrespective of where a trader is established, orders by consumers from abroad are very frequently refused by traders which refrain from entering into cross-border transactions.*

*deleted*

## **Amendment 11**

### **Proposal for a regulation Recital 6**

*Text proposed by the Commission*

*Amendment*

*(6) Differences in national contract laws therefore constitute barriers which prevent consumers and traders from reaping the benefits of the internal market. Those contract-law-related barriers would be significantly reduced if*

*deleted*

*contracts could be based on a single uniform set of contract law rules irrespective of where parties are established. Such a uniform set of contract law rules should cover the full life cycle of a contract and thus comprise the areas which are the most important when concluding contracts. It should also include fully harmonised provisions to protect consumers.*

## **Amendment 12**

### **Proposal for a regulation Recital 7**

*Text proposed by the Commission*

*Amendment*

*(7) The differences between national contract laws and their effect on cross-border trade also serve to limit competition. With a low level of cross-border trade, there is less competition, and thus less incentive for traders to become more innovative and to improve the quality of their products or to reduce prices. Particularly in smaller Member States with a limited number of domestic competitors, the decision of foreign traders to refrain from entering these markets due to costs and complexity may limit competition, resulting in an appreciable impact on choice and price levels for available products. In addition, the barriers to cross-border trade may jeopardise competition between SME and larger companies. In view of the significant impact of the transaction costs in relation to turnover, an SME is much more likely to refrain from entering a foreign market than a larger competitor.*

*deleted*

## Amendment 13

### Proposal for a regulation Recital 8

*Text proposed by the Commission*

***(8) To overcome these contract-law-related barriers, parties should have the possibility to agree that their contracts should be governed by a single uniform set of contract law rules with the same meaning and interpretation in all Member States, a Common Sales Law. The Common European Sales Law should represent an additional option increasing the choice available to parties and open to use whenever jointly considered to be helpful in order to facilitate cross-border trade and reduce transaction and opportunity costs as well as other contract-law-related obstacles to cross-border trade. It should become the basis of a contractual relationship only where parties jointly decide to use it.***

*Amendment*

***deleted***

## Amendment 14

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

***(9) This Regulation establishes a Common European Sales Law. It harmonises the contract laws of the Member States not by requiring amendments to the pre-existing national contract law, but by creating within each Member State's national law a second contract law regime for contracts within its scope. This second regime should be identical throughout the Union and exist alongside the pre-existing rules of national contract law. The Common European Sales Law should apply on a***

*Amendment*

***(9) This Directive provides a minimum set of rules making up the legal framework for certain aspects of the sale of consumer goods and digital content, legal obligations relating to guarantees of conformity and related-services contracts. This Directive therefore harmonises the contract law of Member States without preventing them from maintaining or introducing stricter national provisions in the areas harmonised by this Directive in order to guarantee a high level of consumer protection.***

*voluntary basis, upon an express agreement of the parties, to a cross-border contract.*

## **Amendment 15**

### **Proposal for a regulation Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) For the purchase of second hand goods, Article 7 (1) of Directive 1999/44 on Consumer Sales stipulates that Member States can allow traders to reduce the guarantee period to one year. Given the increasing importance of the second-hand market for European consumers in this time of economic crisis and given the need to promote more sustainable consumption, a reduction of the legal guarantee to one year is no longer justified. The guarantee period for second hand goods should rather be assessed on the base of the definition of requirements for the conformity of the goods or digital content as provided for in this Directive.***

#### *Justification*

*Article 7 (1) of Directive 1999/44 on Consumer Sales stipulates that Member States can allow traders to reduce the guarantee period to one year. This is neither necessary as we can see from those Member States who have not made use of this option nor desirable in the context of sustainable consumption. Thus this regulatory option is not maintained in this directive.*

## **Amendment 16**

### **Proposal for a regulation Recital 9 b (new)**

*Text proposed by the Commission*

*Amendment*

***(9b) The rules on legal guarantees have***

*an important role to play in promoting suitable products and are relevant in the context of the EU strategy on Integrated Product Policy. In order to promote sustainable consumption, consumers' confidence in products developed on the basis of the standards laid down in the eco-design legislation, it is necessary to ensure that the consumer counts on guarantee rights thorough the life cycle of the eco-designed product. This period of time should be established in reference to the implemented measures of Directive 2009/158/EC which requires an assessment of the life expectance of the product.*

## **Amendment 17**

### **Proposal for a regulation**

#### **Recital 10**

*Text proposed by the Commission*

*Amendment*

*(10) The agreement to use the Common European Sales Law should be a choice exercised within the scope of the respective national law which is applicable pursuant to Regulation (EC) No 593/2008 or, in relation to pre-contractual information duties, pursuant to Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Regulation (EC) No 864/2007), or any other relevant conflict of law rule. The agreement to use the Common European Sales Law should therefore not amount to, and not be confused with, a choice of the applicable law within the meaning of the conflict-of-law rules and should be without prejudice to them. This Regulation will therefore not affect any of the existing conflict of law rules.*

*deleted*

## Amendment 18

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

(11) ***The Common European Sales Law should comprise of a complete set of fully harmonised mandatory consumer protection rules.*** In line with Article 114(3) of the Treaty, those rules should guarantee a high level of consumer protection with a view to enhancing consumer confidence ***in the Common European Sales Law*** and thus provide consumers with an incentive to enter into cross-border contracts ***on that basis***. The rules should maintain or improve the level of protection that consumers enjoy under Union consumer law.

*Amendment*

(11) In line with Article 114(3) of the Treaty, those rules should guarantee a high level of consumer protection with a view to enhancing consumer confidence and thus provide consumers with an incentive to enter into cross-border contracts. The rules should maintain or improve the ***existing*** level of protection that consumers enjoy under Union consumer law.

## Amendment 19

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

(12) ***Since the Common European Sales Law contains a complete set of fully harmonised mandatory consumer protection rules, there will be no disparities between the laws of the Member States in this area, where the parties have chosen to use the Common European Sales Law. Consequently, Article 6(2) Regulation (EC) No 593/2008, which is predicated on the existence of differing levels of consumer protection in the Member States, has no practical importance for the issues covered by the Common European Sales***

*Amendment*

***deleted***

*Law.*

## **Amendment 20**

### **Proposal for a regulation Recital 13**

*Text proposed by the Commission*

*Amendment*

*(13) The Common European Sales Law should be available for cross-border contracts, because it is in that context that the disparities between national laws lead to complexity and additional costs and dissuade parties from entering into contractual relationships. The cross-border nature of a contract should be assessed on the basis of the habitual residence of the parties in business-to-business contracts. In a business-to-consumer contract the cross-border requirement should be met where either the general address indicated by the consumer, the delivery address for the goods or the billing address indicated by the consumer are located in a Member State, but outside the State where the trader has its habitual residence.*

*deleted*

## **Amendment 21**

### **Proposal for a regulation Recital 14**

*Text proposed by the Commission*

*Amendment*

*(14) The use of the Common European Sales Law should not be limited to cross-border situations involving only Member States, but should also be available to facilitate trade between Member States and third countries. Where consumers from third countries are involved, the agreement to use the Common European*

*deleted*

*Sales Law, which would imply the choice of a foreign law for them, should be subject to the applicable conflict-of-law rules.*

## **Amendment 22**

### **Proposal for a regulation Recital 15**

*Text proposed by the Commission*

*Amendment*

*(15) Traders engaging in purely domestic as well as in cross-border trade transactions may also find it useful to make use of a single uniform contract for all their transactions. Therefore Member States should be free to decide to make the Common European Sales Law available to parties for use in an entirely domestic setting.* **deleted**

## **Amendment 23**

### **Proposal for a regulation Recital 16**

*Text proposed by the Commission*

*Amendment*

*(16) The Common European Sales Law should be available in particular for the sale of movable goods, including the manufacture or production of such goods, as this is the economically single most important contract type which could present a particular potential for growth in cross-border trade, especially in e-commerce.* **deleted**

## **Amendment 24**

### **Proposal for a regulation**

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## Recital 17

### *Text proposed by the Commission*

(17) In order to reflect the increasing importance of the digital economy, the scope of *the Common European Sales Law* should also cover contracts for the supply of digital content. The transfer of digital content for storage, processing or access, and repeated use, such as a music download, has been growing rapidly and holds a great potential for further growth but is still surrounded by a considerable degree of legal diversity and uncertainty. *The Common European Sales Law* should therefore cover the supply of digital content irrespective of whether or not that content is supplied on a tangible medium.

### *Amendment*

(17) In order to reflect the increasing importance of the digital economy, the scope of *this Directive* should also cover contracts for the supply of digital content. The transfer of digital content for storage, processing or access, and repeated use, such as a music download, has been growing rapidly and holds a great potential for further growth but is still surrounded by a considerable degree of legal diversity and uncertainty. *This Directive* should therefore cover the supply of digital content irrespective of whether or not that content is supplied on a tangible medium.

## Amendment 25

### Proposal for a regulation

#### Recital 18

### *Text proposed by the Commission*

(18) Digital content is often supplied not in exchange for a price but in combination with separate paid goods or services, involving a non-monetary consideration such as giving access to personal data or free of charge in the context of a marketing strategy based on the expectation that the consumer will purchase additional or more sophisticated digital content products at a later stage. In view of this specific market structure and of the fact that defects of the digital content provided may harm the economic interests of consumers irrespective of the conditions under which it has been provided, the *availability of the Common European Sales Law* should not depend on whether a price is paid for the specific digital content in question.

### *Amendment*

(18) Digital content is often supplied not in exchange for a price but in combination with separate paid goods or services, involving a non-monetary consideration such as giving access to personal data or free of charge in the context of a marketing strategy based on the expectation that the consumer will purchase additional or more sophisticated digital content products at a later stage. In view of this specific market structure and of the fact that defects of the digital content provided may harm the economic interests of consumers irrespective of the conditions under which it has been provided, the *protection for the consumer which is ensured by this Directive* should not depend on whether a price is paid for the specific digital content

in question.

## Amendment 26

### Proposal for a regulation Recital 18 a (new)

*Text proposed by the Commission*

*Amendment*

***(18a) While Directive 2011/83/EU lays down provisions on the passing of risk in respect of goods, it remains necessary to complement those provisions by similar provisions on digital content, too, and, in the process, take account of the specific features of those products.***

## Amendment 27

### Proposal for a regulation Recital 19

*Text proposed by the Commission*

*Amendment*

(19) With a view to maximising the added value of the ***Common European Sales Law*** its material scope should also include certain services ***provided by the seller*** that are directly and closely related to specific goods or digital content ***supplied on the basis of the Common European Sales Law***, and in practice often combined in the same or a linked contract at the same time, ***most notably repair, maintenance or installation of the goods or the digital content.***

(19) With a view to maximising the added value of ***updating existing provisions on the legal obligation relating to the guarantee of conformity***, the material scope ***of this Directive*** should also include certain services that are directly and closely related to specific goods or digital content and in practice often combined in the same or a linked contract at the same time.

## Amendment 28

### Proposal for a regulation Recital 20

*Text proposed by the Commission*

***(20) The Common European Sales Law should not cover any related contracts by which the buyer acquires goods or is supplied with a service, from a third party. This would not be appropriate because the third party is not part of the agreement between the contracting parties to use the rules of the Common European Sales Law. A related contract with a third party should be governed by the respective national law which is applicable according pursuant to Regulations (EC) No 593/2008 and (EC) No 864/2007 or any other relevant conflict of law rule.***

*Amendment*

***(20) Should the good, related service or digital content concerned not conform to the contract, consumers should be able to choose from the various remedies which this Directive guarantees them. Consumers should be entitled to require traders to remedy the lack of conformity through certain actions, which may take the form of repair or replacement, a reduction in purchase price, withholding of the consumer's own performance, withdrawal from the contract, or damages. It should be possible, where appropriate, to combine some of these remedies.***

## **Amendment 29**

### **Proposal for a regulation Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) Member States may provide in their national laws that the reimbursement to the consumer may be reduced to take account of the use the consumer has had of the goods or the digital content except if the termination takes place within six months after the risk has passed to the consumer and provided that it would be inequitable to allow the consumer the free use of the goods or digital content after that period of time, taking account the nature and amount of the use and the availability of other remedies other than termination.***

## **Amendment 30**

### **Proposal for a regulation**

## Recital 21

*Text proposed by the Commission*

*Amendment*

***(21) In order to tackle the existing internal market and competition problems in a targeted and proportionate fashion, the personal scope of the Common European Sales Law should focus on parties who are currently dissuaded from doing business abroad by the divergence of national contract laws with the consequence of a significant adverse impact on cross-border trade. It should therefore cover all business-to consumer transactions and contracts between traders where at least one of the parties is an SME drawing upon Commission Recommendation 2003/361 of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises. This should, however, be without prejudice to the possibility for Member States to enact legislation which makes the Common European Sales Law available for contracts between traders, neither of which is an SME. In any case, in business-to-business transactions, traders enjoy full freedom of contract and are encouraged to draw inspiration from the Common European Sales Law in the drafting of their contractual terms.***

*deleted*

## Amendment 31

**Proposal for a regulation**

### Recital 22

*Text proposed by the Commission*

*Amendment*

***(22) The agreement of the parties to a contract is indispensable for the application of the Common European Sales Law. That agreement should be subject to strict requirements in business-to-consumer transactions. Since, in***

*deleted*

*practice, it will usually be the trader who proposes the use of the Common European Sales Law, consumers must be fully aware of the fact that they are agreeing to the use of rules which are different from those of their pre-existing national law. Therefore, the consumer's consent to use the Common European Sales Law should be admissible only in the form of an explicit statement separate from the statement indicating the agreement to the conclusion of the contract. It should therefore not be possible to offer the use of the Common European Sales Law as a term of the contract to be concluded, particularly as an element of the trader's standard terms and conditions. The trader should provide the consumer with a confirmation of the agreement to use the Common European Sales Law on a durable medium.*

## **Amendment 32**

### **Proposal for a regulation Recital 23**

*Text proposed by the Commission*

*Amendment*

*(23) In addition to being a conscious choice, the consent of a consumer to the use of the Common European Sales Law should be an informed choice. The trader should therefore not only draw the consumer's attention to the intended use of the Common European Sales Law but should also provide information on its nature and its salient features. In order to facilitate this task for traders, thereby avoiding unnecessary administrative burdens, and to ensure consistency in the level and the quality of the information communicated to consumers, traders should supply consumers with the standard information notice provided for in this Regulation and thus readily*

*deleted*

*available in all official languages in the Union. Where it is not possible to supply the consumer with the information notice, for example in the context of a telephone call, or where the trader has failed to provide the information notice, the agreement to use the Common European Sales Law should not be binding on the consumer until the consumer has received the information notice together with the confirmation of the agreement and has subsequently expressed consent.*

### **Amendment 33**

#### **Proposal for a regulation**

##### **Recital 24**

*Text proposed by the Commission*

*Amendment*

*(24) In order to avoid a selective application of certain elements of the Common European Sales Law, which could disturb the balance between the rights and obligations of the parties and adversely affect the level of consumer protection, the choice should cover the Common European Sales Law as a whole and not only certain parts of it.*

*deleted*

### **Amendment 34**

#### **Proposal for a regulation**

##### **Recital 25**

*Text proposed by the Commission*

*Amendment*

*(25) Where the United Nations Convention on Contracts for the International Sale of Goods would otherwise apply to the contract in question, the choice of the Common European Sales Law should imply an agreement of the contractual parties to*

*deleted*

*exclude that Convention.*

## **Amendment 35**

### **Proposal for a regulation Recital 26**

*Text proposed by the Commission*

*Amendment*

*(26) The rules of the Common European Sales Law should cover the matters of contract law that are of practical relevance during the life cycle of the types of contracts falling within the material and personal scope, particularly those entered into online. Apart from the rights and obligations of the parties and the remedies for non-performance, the Common European Sales Law should therefore govern pre-contractual information duties, the conclusion of a contract including formal requirements, the right of withdrawal and its consequences, avoidance of the contract resulting from a mistake, fraud, threats or unfair exploitation and the consequences of such avoidance, interpretation, the contents and effects of a contract, the assessment and consequences of unfairness of contract terms, restitution after avoidance and termination and the prescription and preclusion of rights. It should settle the sanctions available in case of the breach of all the obligations and duties arising under its application.*

*deleted*

## **Amendment 36**

### **Proposal for a regulation Recital 27**

*Text proposed by the Commission*

*Amendment*

*(27) All the matters of a contractual or*

*(27) All the matters of a contractual or*

non-contractual nature that are not addressed in *the Common European Sales Law* are governed by the pre-existing rules of *the national law outside the Common European Sales Law that is applicable under Regulations (EC) No 593/2008 and (EC) No 864/2007 or any other relevant conflict of law rule. These issues include legal personality, the invalidity of a contract arising from lack of capacity, illegality or immorality, the determination of the language of the contract, matters of non-discrimination, representation, plurality of debtors and creditors, change of parties including assignment, set-off and merger, property law including the transfer of ownership, intellectual property law and the law of torts. Furthermore, the issue of whether concurrent contractual and non-contractual liability claims can be pursued together falls outside the scope of the Common European Sales Law.*

non-contractual nature that are not addressed in *this Directive* are governed by the pre-existing rules of national law.

#### **Amendment 37**

##### **Proposal for a regulation Recital 28**

*Text proposed by the Commission*

*(28) The Common European Sales Law should not govern any matters outside the remit of contract law. This Regulation should be without prejudice to the Union or national law in relation to any such matters. For example, information duties which are imposed for the protection of health and safety or environmental reasons should remain outside the scope of the Common European Sales Law. This Regulation should further be without prejudice to the information requirements of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal*

*Amendment*

*deleted*

*market.*

## **Amendment 38**

### **Proposal for a regulation Recital 29**

*Text proposed by the Commission*

*Amendment*

*(29) Once there is a valid agreement to use the Common European Sales Law, only the Common European Sales Law should govern the matters falling within its scope. The rules of the Common European Sales Law should be interpreted autonomously in accordance with the well-established principles on the interpretation of Union legislation. Questions concerning matters falling within the scope of the Common European Sales Law which are not expressly settled by it should be resolved only by interpretation of its rules without recourse to any other law. The rules of the Common European Sales Law should be interpreted on the basis of the underlying principles and objectives and all its provisions.*

*deleted*

## **Amendment 39**

### **Proposal for a regulation Recital 30**

*Text proposed by the Commission*

*Amendment*

*(30) Freedom of contract should be the guiding principle underlying the Common European Sales Law. Party autonomy should be restricted only where and to the extent that this is indispensable, in particular for reasons of consumer protection. Where such a necessity exists, the mandatory nature of the rules in*

*deleted*

*question should be clearly indicated.*

#### **Amendment 40**

##### **Proposal for a regulation Recital 31**

*Text proposed by the Commission*

*Amendment*

***(31) The principle of good faith and fair dealing should provide guidance on the way parties have to cooperate. As some rules constitute specific manifestations of the general principle of good faith and fair dealing, they should take precedent over the general principle. The general principle should therefore not be used as a tool to amend the specific rights and obligations of parties as set out in the specific rules. The concrete requirements resulting from the principle of good faith and fair dealing should depend, amongst others, on the relative level of expertise of the parties and should therefore be different in business-to-consumer transactions and in business-to-business transactions. In transactions between traders, good commercial practice in the specific situation concerned should be a relevant factor in this context.***

*deleted*

#### **Amendment 41**

##### **Proposal for a regulation Recital 32**

*Text proposed by the Commission*

*Amendment*

***(32) The Common European Sales Law should aim at the preservation of a valid contract whenever possible and appropriate in view of the legitimate interests of the parties.***

*deleted*

## Amendment 42

### Proposal for a regulation Recital 33

*Text proposed by the Commission*

*(33) The Common European Sales Law should identify well-balanced solutions taking account the legitimate interests of the parties in designating and exercising the remedies available in the case of non-performance of the contract. In business-to-consumer contracts the system of remedies should reflect the fact that the non-conformity of goods, digital content or services falls within the trader's sphere of responsibility.*

*Amendment*

*deleted*

## Amendment 43

### Proposal for a regulation Recital 34

*Text proposed by the Commission*

(34) In order to enhance legal certainty by making the case-law of the Court of Justice of the European Union and of national courts on the interpretation of *the Common European Sales Law or any other provision of this Regulation* accessible to the public, the Commission should create a database comprising the final relevant decisions. With a view to making that task possible, the Member States should ensure that such national judgments are quickly communicated to the Commission.

*Amendment*

(34) In order to enhance legal certainty by making the case-law of the Court of Justice of the European Union and of national courts on the interpretation of this *Directive* accessible to the public, the Commission should create a database comprising the final relevant decisions. With a view to making that task possible, the Member States should ensure that such national judgments are quickly communicated to the Commission.

## Amendment 44

### Proposal for a regulation Recital 35

*Text proposed by the Commission*

*(35) It is also appropriate to review the functioning of the Common European Sales Law or any other provision of this Regulation after five years of operation. The review should take into account, amongst other things, the need to extend further the scope in relation to business-to-business contracts, market and technological developments in respect of digital content and future developments of the Union acquis.*

*Amendment*

*deleted*

## Amendment 45

### Proposal for a regulation Recital 36

*Text proposed by the Commission*

(36) Since the objective of this **Regulation**, namely to contribute to the proper functioning of the internal market by **making available a uniform set of contract law rules that can be used for cross-border transactions throughout the Union**, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this **Regulation** does not go beyond what is necessary in order to achieve that objective.

*Amendment*

(36) Since the objective of this **Directive**, namely to contribute to the proper functioning of the internal market by **harmonising certain aspects of the obligation relating to the guarantee of conformity in connection with sales contracts, related services and digital content**, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this **Directive** does not go beyond what is necessary in order to achieve that objective.

## Amendment 46

### Proposal for a regulation Recital 37

*Text proposed by the Commission*

(37) This **Regulation** respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union **and specifically Articles 16, 38 and 47 thereof**,

*Amendment*

(37) This **Directive** respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

## Amendment 47

### Proposal for a regulation Recital 37 a (new)

*Text proposed by the Commission*

*Amendment*

***(37a) In order to avoid duplication and to compliment existing Union law this Directive should take into account the principles of Directive 2011/83/EU which harmonised rules for distance and off-premises contracts such as pre-contractual information, formal requirements, right of withdrawal, delivery, passing of risk and payment means. This should provide for a solid legal framework of European rules for business who sell goods or digital content to consumers across the Union.***

## Amendment 48

### Proposal for a regulation Recital 37 b (new)

*Text proposed by the Commission*

*Amendment*

***(37b) After the adoption of this Directive, Commission should establish a working***

*group, composed mainly of groups representing consumers and businesses, supported by academics and practitioners, in order to develop standard terms and conditions for on-line business to consumers contracts based on the rules in this Directive and the consumer acquis, in particular Directive 2011/83/EU.*

## **Amendment 49**

### **Proposal for a regulation Article 1 – paragraph 1**

*Text proposed by the Commission*

1. The purpose of this **Regulation** is to improve the conditions for the establishment and the functioning of the internal market by *making available a uniform set of contract law rules as set out in Annex I ('the Common European Sales Law')*. *These rules can be used for cross-border transactions for the sale of goods, for the supply of digital content and for related services where the parties to a contract agree to do so.*

*Amendment*

1. The purpose of this **Directive** is to improve the conditions for the establishment and the functioning of the internal market by *ensuring a high level of consumer protection which takes account of new technologies, too, by harmonising certain aspects of the laws, regulations and administrative provisions of the Member States with regard to certain aspects of the obligation relating to the guarantee of conformity, related services and digital content in connection with contracts concluded between consumers and traders.*

*Justification*

*The Commission proposal should be turned into a directive on minimum harmonisation of certain aspects of the obligation relating to the guarantee of conformity in connection with consumer sales contracts, related services and digital content. In terms of substance, this is an extension of Directive 2011/83/EU. In the interests of legal certainty, matters already regulated in Directive 2011/83/EU should not be addressed by this text.*

## **Amendment 50**

### **Proposal for a regulation Article 1 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. This Regulation enables traders to rely on a common set of rules and use the same contract terms for all their cross-border transactions thereby reducing unnecessary costs while providing a high degree of legal certainty.**

**deleted**

*Justification*

*The directive should be structured as follows:*

*Chapter 1: Scope and definitions*

*Chapter 2: Conformity and the consumer's remedies*

*Chapter 3: Commercial guarantees*

*Chapter 4: Related services*

*Chapter 5: General provisions*

## **Amendment 51**

### **Proposal for a regulation**

#### **Article 1 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. In relation to contracts between traders and consumers, this Regulation comprises a comprehensive set of consumer protection rules to ensure a high level of consumer protection, to enhance consumer confidence in the internal market and encourage consumers to shop across borders.**

3. This **Directive** comprises a comprehensive set of consumer protection rules to ensure a high level of consumer protection, to enhance consumer confidence in the internal market and encourage consumers to shop across borders.

**3a. Save as otherwise provided in this Directive, Member States may maintain or introduce national laws ensuring a higher level of consumer protection which depart from the provisions of this Directive.**

**3b. Should one or more Member States avail itself of the possibility under paragraph 3a, the relevant provisions shall be in conformity with the Treaties and notified to the Commission. The Commission shall subsequently ensure**

*that that information is easily accessible to consumers and traders, inter alia on a dedicated website.*

*3c. The enjoyment of other national rights concerning traders' contractual and non-contractual obligations shall be without prejudice to the consumer rights harmonised by this Directive.*

## **Amendment 52**

### **Proposal for a regulation Article 2 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) 'good faith and fair dealing' means a standard of conduct characterised by honesty, openness and consideration for the interests of the other party to the transaction or relationship in question;*

*deleted*

## **Amendment 53**

### **Proposal for a regulation Article 2 – point c**

*Text proposed by the Commission*

*Amendment*

*(c) 'loss' means economic loss and non-economic loss in the form of pain and suffering, excluding other forms of non-economic loss such as impairment of the quality of life and loss of enjoyment;*

*deleted*

## **Amendment 54**

### **Proposal for a regulation Article 2 – point d**

*Text proposed by the Commission*

*Amendment*

**(d) ‘standard contract terms’ means contract terms which have been drafted in advance for several transactions involving different parties, and which have not been individually negotiated by the parties within the meaning of Article 7 of the Common European Sales Law;**

**deleted**

## **Amendment 55**

### **Proposal for a regulation Article 2 – point e**

*Text proposed by the Commission*

*Amendment*

(e) ‘trader’ means any natural or legal person who is acting for purposes relating to **that person’s** trade, business, craft, or profession;

(e) ‘trader’ means any natural **person** or **any** legal person, **irrespective of whether privately or publicly owned**, who is acting, **including through any other natural or legal person acting in his name or on his behalf**, for purposes relating to **his** trade, business, craft or profession **in relation to contracts**;

#### *Justification*

*This definition corresponds to that in Directive 83/2011 on consumer rights, particularly as regards third parties acting for and on behalf of the trader.*

## **Amendment 56**

### **Proposal for a regulation Article 2 – point f**

*Text proposed by the Commission*

*Amendment*

(f) ‘consumer’ means any natural person who is acting for purposes which are outside **that person’s** trade, business, craft, or profession;

(f) "consumer" means any natural person who is acting for purposes which are outside **his** trade, business, craft or profession;

### *Justification*

*Definition should be brought into line with the Consumer Rights Directive.*

#### **Amendment 57**

##### **Proposal for a regulation**

##### **Article 2 – point h**

###### *Text proposed by the Commission*

(h) “goods” means any tangible movable items; *it excludes:*

*i) electricity and natural gas; and*

*ii) water and other types of gas unless they are put up for sale in a limited volume or set quantity;*

###### *Amendment*

(h) "goods" means any tangible movable items, *with the exception of items sold by way of execution or otherwise by authority of law; water, gas and electricity shall be considered as goods where they are put up for sale in a limited volume or a set quantity;*

### *Justification*

*Wording of definition should be brought into line with the Consumer Rights Directive, particularly as regards the order in which the goods are mentioned.*

#### **Amendment 58**

##### **Proposal for a regulation**

##### **Article 2 – point j – introductory part**

###### *Text proposed by the Commission*

(j) ‘digital content’ means data which are produced and supplied in digital form, whether or not according to the buyer's specifications, including video, audio, picture or written digital content, digital games, software and digital content which makes it possible to personalise existing hardware or software; it excludes:

###### *Amendment*

*(Does not affect English version)*

## Amendment 59

### Proposal for a regulation

#### Article 2 – point j – introductory part

*Text proposed by the Commission*

(j) ‘digital content’ means data which are produced and supplied in digital form, whether or not according to the buyer's specifications, including video, audio, picture or written digital content, digital games, software and digital content which makes it possible to personalise existing hardware or software; it excludes:

*Amendment*

(j) ‘digital content’ means data which are produced and supplied in digital form, whether or not according to the buyer's specifications, ***irrespective of whether the data are accessed through downloading or streaming, from a tangible medium or through any other means, against payment or for non-pecuniary consideration, such as making the consumer's personal data available,*** including video, audio, picture or written digital content, digital games, software and digital content which makes it possible to personalise existing hardware or software; it excludes:

*Justification*

*The definition of digital content should be extended to include free-of-charge digital content.*

## Amendment 60

### Proposal for a regulation

#### Article 2 – point j – point iv

*Text proposed by the Commission*

***(iv) electronic communications services and networks, and associated facilities and services;***

*Amendment*

***deleted***

*Justification*

*This exclusion from the definition of ‘digital content’ is not necessary, and nor is it provided for in Directive 2011/83/EU. So that the scope of both directives is consistent, it should not be deleted.*

## Amendment 61

### Proposal for a regulation Article 2 – point k

*Text proposed by the Commission*

*Amendment*

***(k) ‘sales contract’ means any contract under which the trader ('the seller') transfers or undertakes to transfer the ownership of the goods to another person ('the buyer'), and the buyer pays or undertakes to pay the price thereof; it includes a contract for the supply of goods to be manufactured or produced and excludes contracts for sale on execution or otherwise involving the exercise of public authority;***

***deleted***

*Justification*

*Already regulated by Directive 2011/83/EU.*

## Amendment 62

### Proposal for a regulation Article 2 – point m – introductory part

*Text proposed by the Commission*

*Amendment*

(m) ‘related service’ means any service related to goods or digital content, such as installation, maintenance, repair or any other processing, provided by the seller of the goods or the supplier of the digital content under the sales contract, the contract for the supply of digital content or a separate related service contract which was concluded at the same time as the sales contract or the contract for the supply of digital content; it excludes:

(m) ‘related service’ means any service related to goods or digital content, such as installation, maintenance, repair or any other processing, provided by the seller of the goods or the supplier of the digital content under the sales contract, the contract for the supply of digital content or a separate related service contract which was concluded at the same time as ***or in connection with*** the sales contract or the contract for the supply of digital content; it excludes:

## Amendment 63

### Proposal for a regulation

## Article 2 – point m – point ii

*Text proposed by the Commission*

*Amendment*

**(ii) training services,**

***deleted***

*Justification*

*Training services should be included in the scope of this directive because they may be an important factor in purchasing a good or digital content, such as, for instance, a computer program.*

## Amendment 64

### Proposal for a regulation

#### Article 2 – point n

*Text proposed by the Commission*

*Amendment*

(n) ‘service provider’ means a ***seller of goods or supplier of digital content*** who undertakes to provide ***a customer with*** a service ***related to those goods or that digital content***;

(n) ‘service provider’ means a ***trader*** who undertakes to provide a ***related service***;

## Amendment 65

### Proposal for a regulation

#### Article 2 – point o

*Text proposed by the Commission*

*Amendment*

**(o) ‘customer’ means any person who purchases a related service;**

***deleted***

## Amendment 66

### Proposal for a regulation

#### Article 2 – point p

*Text proposed by the Commission*

*Amendment*

**(p) ‘distance contract’ means any contract between the trader and the consumer**

***deleted***

*under an organised distance sales scheme concluded without the simultaneous physical presence of the trader or, in case the trader is a legal person, a natural person representing the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded;*

*Justification*

*Already regulated in Directive 2011/83/EU.*

## **Amendment 67**

### **Proposal for a regulation**

#### **Article 2 – point q**

*Text proposed by the Commission*

*Amendment*

*(q) ‘off-premises contract’ means any contract between a trader and a consumer:*

*deleted*

*(i) concluded in the simultaneous physical presence of the trader or, where the trader is a legal person, the natural person representing the trader and the consumer in a place which is not the trader's business premises, or concluded on the basis of an offer made by the consumer in the same circumstances; or*

*(ii) concluded on the trader's business premises or through any means of distance communication immediately after the consumer was personally and individually addressed in a place which is not the trader's business premises in the simultaneous physical presence of the trader or, where the trader is a legal person, a natural person representing the trader and the consumer; or*

*(iii) concluded during an excursion organised by the trader or, where the trader is a legal person, the natural*

*person representing the trader with the aim or effect of promoting and selling goods or supplying digital content or related services to the consumer;*

## Amendment 68

### Proposal for a regulation Article 2 – point r

*Text proposed by the Commission*

*Amendment*

*(r) ‘business premises’ means:*

*deleted*

*(i) any immovable retail premises where a trader carries out activity on a permanent basis, or*

*(ii) any movable retail premises where a trader carries out activity on a usual basis;*

*Justification*

*Already regulated in Directive 2011/83/EU.*

## Amendment 69

### Proposal for a regulation Article 2 – point s

*Text proposed by the Commission*

*Amendment*

(s) ‘commercial guarantee’ means any undertaking by the trader or a producer to the consumer, in addition to **legal obligations under Article 106 in case of lack of conformity** to reimburse the price paid or to replace or repair, or service goods or digital content in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of, or before the conclusion of the contract;

(s) "commercial guarantee" means any undertaking by the trader or a producer (the guarantor) to the consumer, in addition to **his legal obligation relating to the guarantee of conformity**, to reimburse the price paid or to replace, repair or service goods **or digital contents** in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of, or before the conclusion of the contract;

*Justification*

*Wording of definition should be brought into line with that in the Consumer Rights Directive.*

**Amendment 70**  
**Proposal for a regulation**  
**Article 2 – point s a (new)**

*Text proposed by the Commission*

*Amendment*

*(sa) ‘repair’ means remedying a lack of conformity of goods or digital contents;*

**Amendment 71**  
**Proposal for a regulation**  
**Article 2 – point s b (new)**

*Text proposed by the Commission*

*Amendment*

*(sb) ‘producer’ means any natural or legal person who manufactures or orders the manufacture of goods or digital contents, any importer of goods or digital contents into the territory of the Union, or any other person purporting to be a producer by placing his name, trade mark or other distinctive sign on the goods or digital contents;*

*Justification*

*Definition from Consumer Goods Directive 1999/44 EC.*

**Amendment 72**  
**Proposal for a regulation**  
**Article 2 – point t**

*Text proposed by the Commission*

*Amendment*

(t) “durable medium” means any medium which enables *a party* to store information addressed *personally* to *that party* in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the

(t) "durable medium" means any instrument which enables *the consumer or the trader* to store information addressed to *him* in a way accessible for future reference for a period of time adequate for the purposes of the information and which

unchanged reproduction of the information stored;

allows the unchanged reproduction of the information stored;

*Justification*

*Wording of definition should be brought into line with the Consumer Rights Directive. However, the word 'personally' should be deleted, since this could imply that the information in question must always be addressed to one of the parties.*

**Amendment 73**

**Proposal for a regulation  
Article 2 – point v**

*Text proposed by the Commission*

*Amendment*

*(v) 'mandatory rule' means any provision the application of which the parties cannot exclude, or derogate from or the effect of which they cannot vary;* *deleted*

**Amendment 74**

**Proposal for a regulation  
Article 2 – point w**

*Text proposed by the Commission*

*Amendment*

*(w) 'creditor' means a person who has a right to performance of an obligation, whether monetary or non-monetary, by another person, the debtor;* *deleted*

**Amendment 75**

**Proposal for a regulation  
Article 2 – point x**

*Text proposed by the Commission*

*Amendment*

*(x) 'debtor' means a person who has an obligation, whether monetary or non-* *deleted*

*monetary, to another person, the creditor;*

**Amendment 76**

**Proposal for a regulation**

**Article 2 – point y a (new)**

*Text proposed by the Commission*

*Amendment*

*(ya) ‘free of charge’ means free of the necessary costs incurred to bring the goods into conformity, particularly the cost of postage, labour and materials.*

**Amendment 77**

**Proposal for a regulation**

**Article 3**

*Text proposed by the Commission*

*Amendment*

*Article 3*

*deleted*

*Optional nature of the Common European Sales Law*

*The parties may agree that the Common European Sales Law governs their cross-border contracts for the sale of goods, for the supply of digital content and for the provision of related services within the territorial, material and personal scope as set out in Articles 4 to 7.*

**Amendment 78**

**Proposal for a regulation**

**Article 4**

*Text proposed by the Commission*

*Amendment*

*Article 4*

*deleted*

*Cross-border contracts*

***1. The Common European Sales Law may be used for cross-border contracts.***

***2. For the purposes of this Regulation, a contract between traders is a cross-border contract if the parties have their habitual residence in different countries of which at least one is a Member State.***

***3. For the purposes of this Regulation, a contract between a trader and a consumer is a cross-border contract if:***

***(a) either the address indicated by the consumer, the delivery address for goods or the billing address are located in a country other than the country of the trader's habitual residence; and***

***(b) at least one of these countries is a Member State.***

***4. For the purposes of this Regulation, the habitual residence of companies and other bodies, corporate or unincorporated, shall be the place of central administration. The habitual residence of a trader who is a natural person shall be that person's principal place of business.***

***5. Where the contract is concluded in the course of the operations of a branch, agency or any other establishment of a trader, the place where the branch, agency or any other establishment is located shall be treated as the place of the trader's habitual residence.***

***6. For the purpose of determining whether a contract is a cross-border contract the relevant point in time is the time of the agreement on the use of the Common European Sales Law.***

## **Amendment 79**

### **Proposal for a regulation Article 5**

*Text proposed by the Commission*

*Amendment*

**Article 5**

*deleted*

***Contracts for which the Common European Sales Law can be used***

***The Common European Sales Law may be used for:***

***(a) sales contracts;***

***(b) contracts for the supply of digital content whether or not supplied on a tangible medium which can be stored, processed or accessed, and re-used by the user, irrespective of whether the digital content is supplied in exchange for the payment of a price.***

***(c) related service contracts, irrespective of whether a separate price was agreed for the related service.***

**Amendment 80**

**Proposal for a regulation**

**Article 6**

*Text proposed by the Commission*

*Amendment*

**Article 6**

*deleted*

***Exclusion of mixed-purpose contracts and contracts linked to a consumer credit***

***1. The Common European Sales Law may not be used for mixed-purpose contracts including any elements other than the sale of goods, the supply of digital content and the provision of related services within the meaning of Article 5.***

***2. The Common European Sales Law may not be used for contracts between a trader and a consumer where the trader grants or promises to grant to the consumer credit in the form of a deferred payment, loan or other similar financial***

*accommodation. The Common European Sales Law may be used for contracts between a trader and a consumer where goods, digital content or related services of the same kind are supplied on a continuing basis and the consumer pays for such goods, digital content or related services for the duration of the supply by means of instalments.*

## **Amendment 81**

### **Proposal for a regulation Article 7**

*Text proposed by the Commission*

*Amendment*

#### *Article 7*

*deleted*

#### *Parties to the contract*

*1. The Common European Sales Law may be used only if the seller of goods or the supplier of digital content is a trader. Where all the parties to a contract are traders, the Common European Sales Law may be used if at least one of those parties is a small or medium-sized enterprise ('SME').*

*2. For the purposes of this Regulation, an SME is a trader which*

- (a) employs fewer than 250 persons; and*
- (b) has an annual turnover not exceeding EUR 50 million or an annual balance sheet total not exceeding EUR 43 million, or, for an SME which has its habitual residence in a Member State whose currency is not the euro or in a third country, the equivalent amounts in the currency of that Member State or third country.*

## **Amendment 82**

### **Proposal for a regulation Article 8**

*Text proposed by the Commission*

*Amendment*

#### *Article 8*

*deleted*

#### *Agreement on the use of the Common European Sales Law*

*1. The use of the Common European Sales Law requires an agreement of the parties to that effect. The existence of such an agreement and its validity shall be determined on the basis of paragraphs 2 and 3 of this Article and Article 9, as well as the relevant provisions in the Common European Sales Law.*

*2. In relations between a trader and a consumer the agreement on the use of the Common European Sales Law shall be valid only if the consumer's consent is given by an explicit statement which is separate from the statement indicating the agreement to conclude a contract. The trader shall provide the consumer with a confirmation of that agreement on a durable medium.*

*3. In relations between a trader and a consumer the Common European Sales Law may not be chosen partially, but only in its entirety.*

## **Amendment 83**

### **Proposal for a regulation Article 9**

*Text proposed by the Commission*

*Amendment*

#### *Article 9*

*deleted*

#### *Standard Information Notice in contracts between a trader and a consumer*

*1. In addition to the pre-contractual information duties laid down in the Common European Sales Law, in relations between a trader and a consumer the trader shall draw the consumer's attention to the intended application of the Common European Sales Law before the agreement by providing the consumer with the information notice in Annex II in a prominent manner. Where the agreement to use the Common European Sales Law is concluded by telephone or by any other means that do not make it possible to provide the consumer with the information notice, or where the trader has failed to provide the information notice, the consumer shall not be bound by the agreement until the consumer has received the confirmation referred to in Article 8(2) accompanied by the information notice and has expressly consented subsequently to the use of the Common European Sales Law.*

*2. The information notice referred to in paragraph 1 shall, if given in electronic form, contain a hyperlink or, in all other circumstances, include the indication of a website through which the text of the Common European Sales Law can be obtained free of charge.*

*Justification*

*Information requirements are already laid down in Directive 2011/83/EU.*

**Amendment 84**

**Proposal for a regulation**  
**Article 10**

*Text proposed by the Commission*

*Amendment*

*Article 10*

*deleted*

*Penalties for breach of specific*

*requirements*

*Member States shall lay down penalties for breaches by traders in relations with consumers of the requirements set out in Articles 8 and 9 and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided shall be effective, proportionate and dissuasive. Member States shall notify the relevant provisions to the Commission no later than [1 year after the date of application of this Regulation] and shall notify any subsequent changes as soon as possible.*

**Amendment 85**

**Proposal for a regulation  
Article 11**

*Text proposed by the Commission*

*Amendment*

*Article 11*

*deleted*

*Consequences of the use of the Common  
European Sales Law*

*Where the parties have validly agreed to use the Common European Sales Law for a contract, only the Common European Sales Law shall govern the matters addressed in its rules. Provided that the contract was actually concluded, the Common European Sales Law shall also govern the compliance with and remedies for failure to comply with the pre-contractual information duties.*

**Amendment 86**

**Proposal for a regulation  
Article 12**

*Text proposed by the Commission*

*Amendment*

**Article 12**

*deleted*

***Information requirements resulting from  
the Services Directive***

***This Regulation is without prejudice to the information requirements laid down by national laws which transpose the provisions of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market and which complement the information requirements laid down in the Common European Sales Law.***

**Amendment 87**

**Proposal for a regulation  
Article 13**

*Text proposed by the Commission*

*Amendment*

**Article 13**

*deleted*

***Member States' options***

***A Member State may decide to make the Common European Sales Law available for:***

***(a) contracts where the habitual residence of the traders or, in the case of a contract between a trader and a consumer, the habitual residence of the trader, the address indicated by the consumer, the delivery address for goods and the billing address, are located in that Member State; and/or***

***(b) contracts where all the parties are traders but none of them is an SME within the meaning of Article 7(2).***

## Amendment 88

### Proposal for a regulation Article 14 – title

*Text proposed by the Commission*

Communication of judgments applying this  
*Regulation*

*Amendment*

Communication of judgments applying this  
*Directive*

## Amendment 89

### Proposal for a regulation Article 14 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that final judgments of their courts applying the rules of this *Regulation* are communicated without undue delay to the Commission.

*Amendment*

1. Member States shall ensure that final judgments of their courts applying the rules of this *Directive* are communicated without undue delay to the Commission.

## Amendment 90

### Proposal for a regulation Article 15

*Text proposed by the Commission*

*Article 15*

*Review*

*1. By ... [4 years after the date of application of this Regulation], Member States shall provide the Commission with information relating to the application of this Regulation, in particular on the level of acceptance of the Common European Sales Law, the extent to which its provisions have given rise to litigation and on the state of play concerning differences in the level of consumer protection between the Common European Sales Law and national law.*

*Amendment*

*deleted*

*That information shall include a comprehensive overview of the case law of the national courts interpreting the provisions of the Common European Sales Law.*

*2. By ... [5 years after the date of application of this Regulation], the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a detailed report reviewing the operation of this Regulation, and taking account of, amongst others, the need to extend the scope in relation to business-to-business contracts, market and technological developments in respect of digital content and future developments of the Union acquis.*

#### **Amendment 91**

##### **Proposal for a regulation Article 16 – paragraph 1**

*Text proposed by the Commission*

1. This **Regulation** shall enter into force on the **20th** day following that of its publication in the Official Journal of the European Union.

*Amendment*

1. This **Directive** shall enter into force on the **twentieth** day following that of its publication in the Official Journal of the European Union.

#### **Amendment 92**

##### **Proposal for a regulation Article 16 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*It shall apply from [ 6 months after its the entry into force].*

*Amendment*

*deleted*

## **Amendment 93**

### **Proposal for a regulation**

#### **Article 16 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*This Regulation shall be binding in its entirety and directly applicable in the Member States.*

*deleted*

## **Amendment 94**

### **Proposal for a regulation**

#### **Article 16 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 16a*

*Addressees*

*This Directive is addressed to the Member States.*

## **Amendment 95**

### **Proposal for a regulation**

#### **Annex I – Title**

*Text proposed by the Commission*

*Amendment*

**COMMON EUROPEAN SALES LAW**

*deleted*

## **Amendment 96**

### **Proposal for a regulation**

#### **Annex I – Table of contents**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

**Amendment 97**

**Proposal for a regulation  
Annex I – Part I**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

**Amendment 98**

**Proposal for a regulation  
Annex I – Part II**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

**Amendment 99**

**Proposal for a regulation  
Annex I – Part III**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

**Amendment 100**

**Proposal for a regulation  
Annex I – Part IV – Chapter 9**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

**Amendment 101**

**Proposal for a regulation**

## **Annex I – Part IV – Chapter 10 – Section 1**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

## **Amendment 102**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 2**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

## **Amendment 103**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 3 – title**

*Text proposed by the Commission*

*Amendment*

Conformity *of* the *goods and digital content*

Conformity *with* the *contract and the consumer's remedies*

## **Amendment 104**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 3 – Article 99 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. In order to conform with the contract, the goods or digital content must:

**1. *The seller is obliged to deliver the goods or digital content in conformity with the contract.*** In order to conform with the contract, the goods or digital content must:

## Amendment 105

### Proposal for a regulation

#### Annex I – Part IV – Chapter 10 – Section 3 – Article 99 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. In order to conform with the contract the goods or digital content must also meet the requirements of Articles **100, 101 and 102**, *save to the extent that the parties have agreed otherwise.*

2. In order to conform with the contract the goods or digital content must also meet the requirements of Articles [...] (***Criteria for conformity of the goods and digital content; Incorrect installation under a consumer sales contract***).

## Amendment 106

### Proposal for a regulation

#### Annex I – Part IV – Chapter 10 – Section 3 – Article 99 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. ***In a consumer sales contract***, any agreement derogating from the requirements of Articles **100, 102 and 103** to the detriment of the consumer is valid only if, at the time of the conclusion of the contract, the consumer knew of the specific condition of the goods or the digital content and accepted the goods or the digital content as being in conformity with the contract when concluding it.

3. Any agreement derogating from the requirements of Articles [...] (***Criteria for conformity of the goods and digital content; incorrect installation under a consumer sales contract***) to the detriment of the consumer is valid only if, at the time of the conclusion of the contract, the consumer knew of the specific condition of the goods or the digital content and ***explicitly*** accepted the goods or the digital content as being in conformity with the contract when concluding it.

## Amendment 107

### Proposal for a regulation

#### Annex I – Part IV – Chapter 10 – Section 3 – Article 99 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. ***In a consumer sales contract, the parties may not, to the detriment of the consumer, exclude the application of***

***deleted***

*paragraph 3 or derogate from or vary its effects.*

## **Amendment 108**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 3 – Article 100 – point a**

##### *Text proposed by the Commission*

(a) be fit for any particular purpose made known to the seller at the time of the conclusion of the contract, except where the *circumstances show* that *the buyer did not rely, or that it was unreasonable for the buyer to rely, on the seller's skill and judgement*;

##### *Amendment*

(a) be fit for any particular purpose made known to the seller at the time of the conclusion of the contract, except where the *seller shows* that *he provided corrected fitness-for-purpose information*;

##### *Justification*

*It is more appropriate and more consumer-friendly if a seller is obliged to expressly counter an incorrect opinion voiced by a consumer as to the fitness of a good for a particular purpose.*

## **Amendment 109**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 3 – Article 100 – point f**

##### *Text proposed by the Commission*

f) possess the qualities and performance capabilities indicated in any pre-contractual statement *which forms part of the contract terms by virtue of Article 69*; and

##### *Amendment*

f) possess the qualities and performance capabilities indicated in any pre-contractual statement; and

## **Amendment 110**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 3 – Article 100 – point g**

*Text proposed by the Commission*

*Amendment*

g) possess such qualities and performance capabilities as the **buyer** may expect. When determining what the consumer may expect of the digital content regard is to be had to whether or not the digital content was supplied in exchange for the payment of a price.

g) possess such qualities and performance capabilities as the **consumer** may expect, **including durability, appearance and absence of minor faults**. When determining what the consumer may expect of the digital content regard is to be had to whether or not the digital content was supplied in exchange for the payment of a price.

**Amendment 111**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 10 – Section 3 – Article 101 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. The parties may not, to the detriment of the consumer, exclude the application of this Article or derogate from or vary its effects.**

**deleted**

**Amendment 112**

**Proposal for a regulation**

**Annex I – Chapter 10 – Section 3 – Article 102**

*Text proposed by the Commission*

*Amendment*

**Article 102**

**deleted**

**Third party rights or claims**

**1. The goods must be free from and the digital content must be cleared of any right or not obviously unfounded claim of a third party.**

**2. As regards rights or claims based on intellectual property, subject to paragraphs 3 and 4, the goods must be free from and the digital content must be cleared of any right or not obviously**

*unfounded claim of a third party:*

*(a) under the law of the state where the goods or digital content will be used according to the contract or, in the absence of such an agreement, under the law of the state of the buyer's place of business or in contracts between a trader and a consumer the consumer's place of residence indicated by the consumer at the time of the conclusion of the contract; and*

*(b) which the seller knew of or could be expected to have known of at the time of the conclusion of the contract.*

*3. In contracts between businesses, paragraph 2 does not apply where the buyer knew or could be expected to have known of the rights or claims based on intellectual property at the time of the conclusion of the contract.*

*4. In contracts between a trader and a consumer, paragraph 2 does not apply where the consumer knew of the rights or claims based on intellectual property at the time of the conclusion of the contract.*

*5. In a contract between a trader and a consumer, the parties may not, to the detriment of a consumer, exclude the application of this Article or derogate from or vary its effect.*

## **Amendment 113**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 10 – Section 3 – Article 103**

*Text proposed by the Commission*

*Amendment*

*Article 103*

*deleted*

*Limitation on conformity of digital content*

*Digital content is not considered as not conforming to the contract for the sole*

*reason that updated digital content has become available after the conclusion of the contract.*

#### **Amendment 114**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 10 – Section 3 – Article 104**

*Text proposed by the Commission*

*Amendment*

##### **Article 104**

*deleted*

*Buyer's knowledge of lack of conformity in a contract between traders*

*In a contract between traders, the seller is not liable for any lack of conformity of the goods if, at the time of the conclusion of the contract, the buyer knew or could not have been unaware of the lack of conformity.*

#### **Amendment 115**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 10 – Section 3 – Article 105 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The seller is liable for any lack of conformity which exists at the time when the risk passes to the **buyer under Chapter 14**.

1. The seller is liable for any lack of conformity which exists at the time when the risk passes to the **consumer**.

##### *Justification*

*In the interests of clarity of layout, Article 105 as amended for this Directive should be placed directly between Articles 114 and [...] (time limits).*

#### **Amendment 116**

##### **Proposal for a regulation**

## Annex I – Part IV – Chapter 10 – Section 3 – Article 105 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. In a consumer sales contract, any lack of conformity which becomes apparent within **six months** of the time when risk passes to the **buyer** is presumed to have existed at that time unless this is incompatible with the nature of the goods or digital content or with the nature of the lack of conformity.

2. In a consumer sales contract **or a contract for the supply of digital content**, any lack of conformity which becomes apparent within **one year** of the time when risk passes to the **consumer** is presumed to have existed at that time unless this is incompatible with the nature of the goods or digital content or with the nature of the lack of conformity.

*Justification*

*The reversal of the burden of proof is currently set at six months in Directive 1999/44/EU. In practice, however, faults which arise after six months are often not recognised, even though the guarantee is still valid. Consumers are rarely able to prove that the faults already existed at the time of purchase without resorting to costly expert reports. The time limit should therefore be extended.*

### Amendment 117

#### Proposal for a regulation

## Annex I – Part IV – Chapter 10 – Section 3 – Article 105 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Where the digital content must be subsequently updated by the trader, the trader must ensure that the digital content remains in conformity with the contract throughout the duration of the contract.

4. Where the digital content must be subsequently updated by the trader, **or where he supplies its components separately**, the trader must ensure that the digital content remains in conformity with the contract throughout the duration of the contract.

### Amendment 118

#### Proposal for a regulation

## Annex I – Part IV – Chapter 10 – Section 3 – Article 105 – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. In a contract between a trader and a consumer, the parties may not, to the**

**deleted**

*detriment of a consumer, exclude the application of this Article or derogate from or vary its effect.*

*Justification*

*In the interests of clarity of layout, Article 105 as amended for this Directive should be placed directly between Articles 114 and [...] (time limits).*

**Amendment 119**

**Proposal for a regulation  
Annex I – Part IV – Chapter 11 – title**

*Text proposed by the Commission*

*Amendment*

*The buyer's* remedies

Remedies

**Amendment 120**

**Proposal for a regulation  
Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. In the case of non-performance of *an* obligation by the seller, the *buyer* may do any of the following:

1. In the case of non-performance of *the* obligation *to conform to the contract* by the seller, the *consumer* may do any of the following:

*Justification*

*The rules on remedies contained in the Commission proposal are set at a high level of consumer protection and should therefore be partly incorporated in this directive.*

**Amendment 121**

**Proposal for a regulation  
Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) require performance, which includes specific performance, repair or replacement of the goods or digital content, ***under Section 3 of this Chapter***;

(a) require performance, which includes specific performance, repair or replacement of the goods or digital content;

## **Amendment 122**

### **Proposal for a regulation**

**Annex I – Part IV – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) withhold the buyer's own performance ***under Section 4 of this Chapter***;

(b) to withhold the buyer's own performance;

## **Amendment 123**

### **Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) terminate the contract under ***Section 5 of this Chapter*** and claim the return of any price already paid, ***under Chapter 17***;

(c) terminate the contract under ***Article [...]*** (***Termination for non-performance***) and claim the return of any price already paid;

## **Amendment 124**

### **Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

(d) reduce the price ***under Section 6 of this Chapter***; and

(d) reduce the price; and

## **Amendment 125**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) claim damages *under Chapter 16*.

(e) claim damages.

## **Amendment 126**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*2. If the buyer is a trader:*

*2. In the case of digital content made available free of charge, the consumer may make use of the remedies referred to in points a, b, c and e of paragraph 1.*

*(a) the buyer's rights to exercise any remedy except withholding of performance are subject to cure by the seller as set out in Section 2 of this Chapter; and*

*(b) the buyer's rights to rely on lack of conformity are subject to the requirements of examination and notification set out in Section 7 of this Chapter.*

#### *Justification*

*The personal data of consumers have economic value. Consequently, making these data available represents a quid pro quo. The consumer should therefore also be entitled to remedies.*

## **Amendment 127**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. If the buyer is a consumer:**

***(a) the buyer's rights are not subject to cure by the seller; and***

***(b) the requirements of examination and notification set out in Section 7 of this Chapter do not apply.***

**3. Remedies which are not incompatible may be cumulated.**

## **Amendment 128**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. If the seller's non-performance is excused, the buyer may resort to any of the remedies referred to in paragraph 1 except requiring performance and damages.**

**4. The right to resort to these remedies passes to a subsequent purchaser of the goods or digital content where that purchaser is a consumer.**

#### *Justification*

*It should be made clear that claims to remedies are not lost following a change of owner but pass to the next purchaser, on condition that this purchaser is acting as a consumer.*

## **Amendment 129**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The buyer may not resort to any of the remedies referred to in paragraph 1 to the extent that the buyer caused the seller's non-performance.**

***deleted***

## Amendment 130

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 1 – Article 106 – paragraph 6

*Text proposed by the Commission*

*Amendment*

**6. Remedies which are not incompatible  
may be cumulated.** *deleted*

## Amendment 131

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 1 – Article 107

*Text proposed by the Commission*

*Amendment*

**Article 107** *deleted*

***Limitation of remedies for digital content  
not supplied in exchange for a price***

***Where digital content is not supplied in  
exchange for the payment of a price, the  
buyer may not resort to the remedies  
referred to in points (a) to (d) of Article  
106(1). The buyer may only claim  
damages under point (e) of Article 106 (1)  
for loss or damage caused to the buyer's  
property, including hardware, software  
and data, by the lack of conformity of the  
supplied digital content, except for any  
gain of which the buyer has been deprived  
by that damage.***

## Amendment 132

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 1 – Article 108

*Text proposed by the Commission*

*Amendment*

**Article 108** *deleted*

***Mandatory nature***

*In a contract between a trader and a consumer, the parties may not, to the detriment of the consumer, exclude the application of this Chapter, or derogate from or vary its effect before the lack of conformity is brought to the trader's attention by the consumer.*

#### **Amendment 133**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 2 – title**

*Text proposed by the Commission*

*Amendment*

Cure by the *seller*

Cure by the *service provider*

#### **Amendment 134**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. A *seller* who has tendered performance early and who has been notified that the performance is not in conformity with the contract may make a new and conforming tender if that can be done within the time allowed for performance.

1. A *service provider* who has tendered performance early and who has been notified that the performance is not in conformity with the contract may make a new and conforming tender if that can be done within the time allowed for performance.

##### *Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

#### **Amendment 135**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. In cases not covered by paragraph 1 a **seller** who has tendered a performance which is not in conformity with the contract may, without undue delay on being notified of the lack of conformity, offer to cure it at its own expense.

2. In cases not covered by paragraph 1 a **service provider** who has tendered a performance which is not in conformity with the contract may, without undue delay on being notified of the lack of conformity, offer to cure it at its own expense.

*Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

**Amendment 136**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. An offer to cure is not precluded by notice of termination.**

**deleted**

**Amendment 137**

**Proposal for a regulation**

**Annex I– Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

4. The **buyer** may refuse an offer to cure **only** if:

4. The **consumer** may refuse an offer to cure if:

*Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

## Amendment 138

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 4 – point a

*Text proposed by the Commission*

*Amendment*

(a) cure cannot be effected promptly and without significant inconvenience to the **buyer**;

a) cure cannot be effected promptly and without significant inconvenience to the **consumer**;

#### *Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

## Amendment 139

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 4 – point b

*Text proposed by the Commission*

*Amendment*

(b) the **buyer** has reason to believe that the **seller's** future performance cannot be relied on; or

b) the **consumer** has reason to believe that the **service provider's** future performance cannot be relied on; or

#### *Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

## Amendment 140

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The **seller** has **a reasonable period of time** to effect cure.

5. The **service provider** has **30 days** to effect cure.

### *Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

### **Amendment 141**

#### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The buyer may withhold performance pending cure, but the rights of the buyer which are inconsistent with allowing the seller a period of time to effect cure are suspended until that period has expired.** **deleted**

### *Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

### **Amendment 142**

#### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 2 – Article 109 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

7. Notwithstanding cure, the **buyer** retains the right to claim damages for delay as well as for any harm caused or not prevented by the cure.

7. Notwithstanding cure, the **consumer** retains the right to claim damages for delay as well as for any harm caused or not prevented by the cure.

### *Justification*

*For the sake of greater clarity, Article 109, revised in keeping with the purposes of this directive, should come between Articles 155 (Remedies of the consumer) and 158 (Consumer's right to decline performance).*

## Amendment 143

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 3 – Article 110 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. If, in the event of non-conformity, and although requested to do so by the consumer, the trader does not effect remedy, but instead urges the consumer to seek remedy on the basis of a commercial warranty, the trader must allow the actions taken and statements made by the consumer and the warrantor concerning the commercial warranty to be asserted against him in respect of his commitments.***

*Justification*

*It may be disadvantageous for the consumer to seek remedy for non-conformity on the basis of the manufacturer's warranty, rather than on the basis of his or her sales law rights under Article 106. By way of an example, rights under the warranty may expire whilst the consumer argues in vain with the manufacturer about the scope of the warranty. What is more, it may be that after failed attempts at repair by the manufacturer, the buyer must first allow the seller to carry out further attempts at repair before being able to take the step of withdrawing from the sales contract. This is unfair if, at the urging of the seller, who thus avoids having his own liability invoked, the consumer seeks remedy under the terms of a warranty. For that reason the seller must allow actions and statements by the consumer and warrantor to be asserted against him.*

## Amendment 144

### Proposal for a regulation

#### Annex I – Part IV – Chapter 11 – Section 3 – Article 111 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

***1. Where, in a consumer sales contract, the trader is required to remedy a lack of conformity pursuant to Article 110(2) the consumer may choose*** between repair and replacement unless the option chosen would be unlawful or impossible or,

***1. If the good or the digital content is not in conformity with the contract, the consumer may require remedy free of charge by choosing*** between repair and replacement unless the option chosen would be unlawful or impossible or,

compared to the other option available, would impose costs on the seller that would be disproportionate taking into account:

compared to the other option available, would impose costs on the seller that would be disproportionate taking into account:

## **Amendment 145**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 3 – Article 111 – paragraph 2**

##### *Text proposed by the Commission*

2. If the consumer has required the remedying of the lack of conformity by repair or replacement pursuant to paragraph 1, the consumer may resort to other remedies only if ***the trader has not completed repair or replacement within a reasonable time, not exceeding 30 days. However, the consumer may withhold performance during that time.***

##### *Amendment*

2. If the consumer has required the remedying of the lack of conformity by repair or replacement pursuant to paragraph 1, the consumer may resort to other remedies only if:

##### *Justification*

*Ensuring that in the context of the repair of goods consumers do not end up trapped in an endless cycle of dealings with traders constitutes a genuine improvement in consumer protection. The jurisprudence in many Member States seems to be based on the assumption that only after the second repair does the consumer have the right to seek an alternative remedy. In the light of what are sometimes considerable geographical distances and lengthy delivery periods in the internal market, the consumer should already be able to seek an alternative remedy when the same fault occurs for the second time.*

## **Amendment 146**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 3 – Article 111 – paragraph 2 – points a to c (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***(a) the trader has not completed repair or replacement within a reasonable time, not exceeding 30 days;***

- (b) the trader has implicitly or explicitly refused to remedy the lack of conformity;*
- (c) the same fault has occurred again following repair or replacement.*

#### **Amendment 147**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 3 – Article 112**

*Text proposed by the Commission*

*Amendment*

##### **Article 112**

*deleted*

##### **Return of replaced item**

- 1. Where the seller has remedied the lack of conformity by replacement, the seller has a right and an obligation to take back the replaced item at the seller's expense.*
- 2. The buyer is not liable to pay for any use made of the replaced item in the period prior to the replacement.*

#### **Amendment 148**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 4 – Article 113**

*Text proposed by the Commission*

*Amendment*

##### **Article 113**

*deleted*

##### **Right to withhold performance**

- 1. A buyer who is to perform at the same time as, or after, the seller performs has a right to withhold performance until the seller has tendered performance or has performed.*
- 2. A buyer who is to perform before the seller performs and who reasonably believes that there will be non-performance by the seller when the seller's performance becomes due may*

*withhold performance for as long as the reasonable belief continues.*

*3. The performance which may be withheld under this Article is the whole or part of the performance to the extent justified by the non-performance. Where the seller's obligations are to be performed in separate parts or are otherwise divisible, the buyer may withhold performance only in relation to that part which has not been performed, unless the seller's non-performance is such as to justify withholding the buyer's performance as a whole.*

#### **Amendment 149**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 5 – Article 114 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*1. A buyer may terminate the contract within the meaning of Article 8 if the seller's non-performance under the contract is fundamental within the meaning of Article 87 (2).*

*1. In the case of a consumer sales contract and a contract for the supply of digital content between a trader and a consumer, where there is non-performance because the goods or the digital content do not conform to the contract the consumer may terminate the contract unless the lack of conformity is insignificant.*

#### **Amendment 150**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 5 – Article 114 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*2. In a consumer sales contract and a contract for the supply of digital content between a trader and a consumer, where there is a non-performance because the*

*2. If the customer terminates a contract for the supply of digital content which was not concluded in exchange for monetary consideration on the grounds of non-*

*goods do not conform to the contract, the consumer may terminate the contract unless the lack of conformity is insignificant.*

*conformity, the customer's personal data shall automatically be erased and the customer shall be informed of that erasure.*

*Justification*

*With a view to protecting consumers, it should be made clear that even when a contract for the supply of digital content free of charge is terminated the consumer has the right to secure the erasure of personal data he or she has already provided. The consumer should be informed that his or her personal data has been erased.*

**Amendment 151**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 5 – Article 114 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. When the termination of the contract takes place within six months after the risk has passed to the consumer, the consumer is not liable for any use of the good or the digital content.*

**Amendment 152**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 5 – Article 115**

*Text proposed by the Commission*

*Amendment*

*Article 115*

*deleted*

*Termination for delay in delivery after notice fixing additional time for performance*

*1. A buyer may terminate the contract in a case of delay in delivery which is not in itself fundamental if the buyer gives notice fixing an additional period of time of reasonable length for performance and the seller does not perform within that period.*

*2. The additional period referred to in paragraph 1 is taken to be of reasonable length if the seller does not object to it without undue delay.*

*3. Where the notice provides for automatic termination if the seller does not perform within the period fixed by the notice, termination takes effect after that period without further notice.*

### **Amendment 153**

#### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 5 – Article 116**

*Text proposed by the Commission*

*Amendment*

*Article 116*

*deleted*

*Termination for anticipated non-performance*

*A buyer may terminate the contract before performance is due if the seller has declared, or it is otherwise clear, that there will be a non-performance, and if the non-performance would be such as to justify termination.*

### **Amendment 154**

#### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 11 – Section 5 – Article 117**

*Text proposed by the Commission*

*Amendment*

*Article 117*

*deleted*

*Scope of right to terminate*

*1. Where the seller's obligations under the contract are to be performed in separate parts or are otherwise divisible, then if there is a ground for termination under this Section of a part to which a part of the price can be apportioned, the buyer*

*may terminate only in relation to that part.*

*2. Paragraph 1 does not apply if the buyer cannot be expected to accept performance of the other parts or the non-performance is such as to justify termination of the contract as a whole.*

*3. Where the seller's obligations under the contract are not divisible or a part of the price cannot be apportioned, the buyer may terminate only if the non-performance is such as to justify termination of the contract as a whole.*

#### **Amendment 155**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 5 – Article 118**

*Text proposed by the Commission*

*Amendment*

##### *Article 118*

*deleted*

##### *Notice of termination*

*A right to terminate under this Section is exercised by notice to the seller.*

#### **Amendment 156**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 11 – Section 5 – Article 119**

*Text proposed by the Commission*

*Amendment*

##### *Article 119*

*deleted*

##### *Loss of right to terminate*

*1. The buyer loses the right to terminate under this Section if notice of termination is not given within a reasonable time from when the right arose or the buyer became, or could be expected to have become, aware of the non-performance, whichever*

*is later.*

**2. Paragraph 1 does not apply:**

*(a) where the buyer is a consumer; or*

*(b) where no performance at all has been tendered.*

## **Amendment 157**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 6 – Article 120**

*Text proposed by the Commission*

*Amendment*

**Article 120**

**deleted**

***Right to reduce price***

***1. A buyer who accepts a performance not conforming to the contract may reduce the price. The reduction is to be proportionate to the decrease in the value of what was received in performance at the time performance was made compared to the value of what would have been received by a conforming performance.***

***2. A buyer who is entitled to reduce the price under paragraph 1 and who has already paid a sum exceeding the reduced price may recover the excess from the seller.***

***3. A buyer who reduces the price cannot also recover damages for the loss thereby compensated but remains entitled to damages for any further loss suffered.***

## **Amendment 158**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 7 – Article 121**

*Text proposed by the Commission*

*Amendment*

**Article 121**

*deleted*

***Examination of the goods in contracts  
between traders***

***1. In a contract between traders the buyer is expected to examine the goods, or cause them to be examined, within as short a period as is reasonable not exceeding 14 days from the date of delivery of the goods, supply of digital content or provision of related services.***

***2. If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.***

***3. If the goods are redirected in transit, or redispached by the buyer before the buyer has had a reasonable opportunity to examine them, and at the time of the conclusion of the contract the seller knew or could be expected to have known of the possibility of such redirection or redispach, examination may be deferred until after the goods have arrived at the new destination.***

**Amendment 159**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 11 – Section 7 – Article 122**

*Text proposed by the Commission*

*Amendment*

**Article 122**

*deleted*

***Requirement of notification of lack of conformity in sales contracts between traders***

***1. In a contract between traders the buyer may not rely on a lack of conformity if the buyer does not give notice to the seller within a reasonable time specifying the***

*nature of the lack of conformity.*

*The time starts to run when the goods are supplied or when the buyer discovers or could be expected to discover the lack of conformity, whichever is later.*

*2. The buyer loses the right to rely on a lack of conformity if the buyer does not give the seller notice of the lack of conformity within two years from the time at which the goods were actually handed over to the buyer in accordance with the contract.*

*3. Where the parties have agreed that the goods must remain fit for a particular purpose or for their ordinary purpose during a fixed period of time, the period for giving notice under paragraph 2 does not expire before the end of the agreed period.*

*4. Paragraph 2 does not apply in respect of the third party claims or rights referred to in Article 102.*

*5. The buyer does not have to notify the seller that not all the goods have been delivered if the buyer has reason to believe that the remaining goods will be delivered.*

*6. The seller is not entitled to rely on this Article if the lack of conformity relates to facts of which the seller knew or could be expected to have known and which the seller did not disclose to the buyer.*

## **Amendment 160**

### **Proposal for a regulation Annex I – Part IV – Chapter 12**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

## **Amendment 161**

### **Proposal for a regulation Annex I – Part IV – Chapter 13**

*Text proposed by the Commission*

*Amendment*

*deleted*

## **Amendment 162**

### **Proposal for a regulation Annex I – Part IV – Chapter 14 – Section 1 – Article 140**

*Text proposed by the Commission*

*Amendment*

*Article 140*

*deleted*

*Effect of passing of risk*

*Loss of, or damage to, the goods or the digital content after the risk has passed to the buyer does not discharge the buyer from the obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.*

## **Amendment 163**

### **Proposal for a regulation Annex I – Part IV – Chapter 14 – Section 1 – Article 141**

*Text proposed by the Commission*

*Amendment*

*Article 141*

*deleted*

*Identification of goods or digital content to contract*

*The risk does not pass to the buyer until the goods or the digital content are clearly identified as the goods or digital content to be supplied under the contract, whether by the initial agreement, by notice given to the buyer or otherwise.*

## **Amendment 164**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 14 – Section 1 – Article 141 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 141a**

##### **Time limits**

- 1. Pursuant to Article [...] (conformity) the trader shall be liable if the non-conformity comes to light within six years following delivery of the good.***
- 2. If the trader remedies the fault by means of repair or replacement, the time limit referred to in paragraph shall be suspended from the time when the consumer informs the trader of the non-conformity to the time when the consumer is once again in possession of the replaced or repaired good or the digital content.***
- 3. If the trader remedies the fault by means of repair or replacement, the time limit referred to in paragraph 1 shall start to run again as soon as the consumer is in receipt of the replaced or repaired good or the digital content. In the event of repair the time limit shall start to run again.***

#### *Justification*

*At present the two-year time limit pursuant to Directive 1999/44/EC applies, but some Member States set longer time limits. In addition, in some Member States the time limits reflect other criteria, such as the expected useful life of the good or hidden defects.*

## **Amendment 165**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 14 – Section 1 – Article 141 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 141b**

***Legal guarantee period for eco-designed products***

***The conformity period for goods covered by this directive and eco-designed according to Directive 2009/125/EC establishing a framework for the setting of ecodesign requirements for energy-related products, shall be the durability period as laid down in the implementing measure to the 2009/125 Directive if it is longer than 6 years.***

*Justification*

*In order to promote sustainable consumption among consumers by creating confidence in products developed following the standards laid down in the ecodesign legislation, it is necessary to ensure that the consumer counts on guarantee rights thorough the life cycle of the product. This period of time should be established in reference to the implemented measures of Directive 2009/158/EC which already requires an assessment of the life expectancy of the product, meaning the state of the product having reached the end of its first use until its final disposal.*

**Amendment 166**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 14 – Section 1 – Article 141 c (new)**

*Text proposed by the Commission*

*Amendment*

**Article 141c**

***Direct producer's liability***

***1. The producer is liable towards the consumer to repair or replace the goods for any lack of conformity that existed at the time of the passing of risk to the consumer for the good or digital content within the time period specified in Article 10. The consumer has the right to choose between repair and replacement, under the conditions stipulated in Article 7***

*paragraph 1.*

*2. The producer shall repair or replace the goods, at the latest 30 days after having been notified of the lack of conformity.*

*3. This Article is without prejudice to the provisions of national law extending the liability to other parties such as the importer or the carrier or concerning the right of contribution or recourse.*

*Justification*

*The direct liability of producers could boost consumer confidence: a consumer could eventually turn directly to a producer established in his/her country, instead of sending a defective good backwards and forwards throughout the EU. In a real Internal Market consumers should be able to choose whom to revert to in case of problems.*

**Amendment 167**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 14 – Section 2 – Article 142 – title**

*Text proposed by the Commission*

*Amendment*

Passing of risk in a *consumer sales* contract

Passing of risk in a contract *for the supply of digital content on a tangible medium*

*Justification*

*The passing of risk is already covered by Directive 2011/83/EU and should be amplified only by a provision on digital content.*

**Amendment 168**

**Proposal for a regulation**

**Annex I – Part IV – Chapter 14 – Section 2 – Article 142 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*1. In a consumer sales contract, the risk passes at the time when the consumer or a third party designated by the consumer,*

*deleted*

*not being the carrier, has acquired the physical possession of the goods or the tangible medium on which the digital content is supplied.*

#### **Amendment 169**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 14 – Section 2 – Article 142 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. Except where the contract is a distance or off-premises contract, paragraphs 1 and 2 do not apply where the consumer fails to perform the obligation to take over the goods or the digital content and the non-performance is not excused under Article 88. In this case, the risk passes at the time when the consumer, or the third party designated by the consumer, would have acquired the physical possession of the goods or obtained the control of the digital content if the obligation to take them over had been performed.** *deleted*

#### **Amendment 170**

##### **Proposal for a regulation**

##### **Annex I– Part IV – Chapter 14 – Section 2 Article 142 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. Where the consumer arranges the carriage of the goods or the digital content supplied on a tangible medium and that choice was not offered by the trader, the risk passes when the goods or the digital content supplied on a tangible medium are handed over to the carrier, without prejudice to the rights of the consumer against the carrier.** *deleted*

## **Amendment 171**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 14 – Section 2 – Article 142 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The parties may not, to the detriment of the consumer, exclude the application of this Article or derogate from or vary its effects.**      *deleted*

## **Amendment 172**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 14 – Section 2 – Article 142 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 142a**

##### **Commercial guarantees**

**1. A commercial guarantee shall be binding on the guarantor under the conditions laid down in the guarantee statement. In the absence of the guarantee statement, or if the guarantee statement is less advantageous than advertised, the commercial guarantee shall be binding under the conditions laid down in the advertising on the commercial guarantee.**

**2. The guarantee statement shall be drafted in plain, intelligible language and be legible. It shall be drafted in the language of the contract concluded with the consumer.**

**The guarantee must:**

**a) indicate the legal rights of the consumer pursuant to Article [...] (Remedies of the consumer), and a clear statement that those rights are not affected by the commercial guarantee,**

*(b) set the contents of the commercial guarantee and the conditions for making claims, notably the duration, territorial scope and the name and address of the guarantor,*

*(c) the benefits to the customer of making a claim, whether the guarantee is free of charge or not, and if it is not what the costs for the customer are;*

*d) the information that the commercial guarantee can be transferred to a subsequent buyer.*

*e) a statement that maintenance services and spare parts will continue to be made available for six years following the conclusion of the contract.*

*3. The trader shall make the guarantee statement available in a durable medium.*

*4. Non compliance with paragraph 2 or 3 shall not affect the validity of the guarantee.*

#### *Justification*

*The text of the provisions on commercial guarantees is based on the Commission proposal on consumers' rights. The principle of transferability should be introduced in order to take account of the sharp increase in online trading of second-hand goods. In addition a rule should be introduced requiring manufacturers to guarantee that maintenance services and spare parts will be available for at least six years after purchase.*

### **Amendment 173**

#### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 14 – Section 3 – Article 143**

*Text proposed by the Commission*

*Amendment*

#### *Article 143*

*deleted*

#### *Time when risk passes*

*1. In a contract between traders the risk passes when the buyer takes delivery of the goods or digital content or the documents representing the goods.*

**2. Paragraph 1 is subject to Articles 144, 145 and 146.**

#### **Amendment 174**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 14 – Section 3 – Article 144**

*Text proposed by the Commission*

*Amendment*

##### **Article 144**

*deleted*

##### **Goods placed at buyer's disposal**

**1. If the goods or the digital content are placed at the buyer's disposal and the buyer is aware of this, the risk passes to the buyer at the time when the goods or digital content should have been taken over, unless the buyer was entitled to withhold taking of delivery pursuant to Article 113.**

**2. If the goods or the digital content are placed at the buyer's disposal at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods or digital content are placed at the buyer's disposal at that place.**

#### **Amendment 175**

##### **Proposal for a regulation**

##### **Annex I – Part IV – Chapter 14 – Section 3 – Article 145**

*Text proposed by the Commission*

*Amendment*

##### **Article 145**

*deleted*

##### **Carriage of the goods**

**1. This Article applies to a contract of sale which involves carriage of goods.**

**2. If the seller is not bound to hand over the goods at a particular place, the risk**

*passes to the buyer when the goods are handed over to the first carrier for transmission to the buyer in accordance with the contract.*

*3. If the seller is bound to hand over the goods to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place.*

*4. The fact that the seller is authorised to retain documents controlling the disposition of the goods does not affect the passing of the risk.*

## **Amendment 176**

### **Proposal for a regulation**

#### **Annex I – Part IV – Chapter 14 – Section 3 – Article 146**

*Text proposed by the Commission*

*Amendment*

#### *Article 146*

*deleted*

#### *Goods sold in transit*

*1. This Article applies to a contract of sale which involves goods sold in transit.*

*2. The risk passes to the buyer as from the time the goods were handed over to the first carrier. However, if the circumstances so indicate, the risk passes to the buyer when the contract is concluded.*

*3. If at the time of the conclusion of the contract the seller knew or could be expected to have known that the goods had been lost or damaged and did not disclose this to the buyer, the loss or damage is at the risk of the seller.*

## **Amendment 177**

### **Proposal for a regulation**

## Annex I – Part V – Chapter 15 – Section 1 – Article 147

*Text proposed by the Commission*

*Amendment*

### **Article 147**

*deleted*

**Application of certain general rules on sales contracts**

- 1. The rules in Chapter 9 apply for the purposes of this Part.**
- 2. Where a sales contract or a contract for the supply of digital content is terminated any related service contract is also terminated.**

## Amendment 178

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 2 – Article 148 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Where in a contract **between a trader and a customer** the related service includes installation of the goods, the installation must be such that the installed goods conform to the contract as required by Article 101.

4. Where in a contract between a trader and a consumer the related service includes installation of the goods, the installation must be such that the installed goods conform to the contract as required by Article [...] (**faulty installation in the context of a customer sales contract**).

## Amendment 179

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 2 – Article 148 – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. In relations between a trader and a consumer the parties may not, to the detriment of the consumer, exclude the application of paragraph 2 or derogate from or vary its effects.**

*deleted*

## **Amendment 180**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 2 – Article 149 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. This article shall be without prejudice to general or specific obligations to prevent damage applicable under existing national law.***

## **Amendment 181**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 2 – Article 150 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. A service provider may entrust performance to another person, unless personal performance by the service provider is required.

*(Does not affect the English version.)*

## **Amendment 182**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 2 – Article 150 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The service provider must obtain the express consent of the consumer before entrusting performance to another person pursuant to paragraph 1.***

*Justification*

*In the interests of clarity of layout, Article 150 as amended for this Directive should be placed directly between Article 152 (Obligation to warn of unexpected or uneconomic cost) and Article 155 (Remedies of the customer).*

## Amendment 183

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 2 – Article 150 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. In relations between a trader and a consumer the parties may not, to the detriment of the consumer, exclude the application of paragraph 2 or derogate from or vary its effects.**

**deleted**

#### *Justification*

*In the interests of clarity of layout, Article 150 as amended for this Directive should be placed directly between Article 152 (Obligation to warn of unexpected or uneconomic cost) and Article 155 (Remedies of the customer).*

## Amendment 184

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 2 – Article 151

*Text proposed by the Commission*

*Amendment*

Where a separate price is payable for the related service, and the price is not a lump sum agreed at the time of conclusion of the contract, the service provider must provide the **customer** with an invoice which explains, in a clear and intelligible way, how the price was calculated.

Where a separate price is payable for the related service, and the price is not a lump sum agreed at the time of conclusion of the contract, the service provider must provide the **consumer** with an invoice which explains, in a clear and intelligible way, how the price was calculated.

## Amendment 185

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 2 – Article 152 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. The service provider must warn the **customer** and seek the consent of the

1. The service provider must warn the **consumer** and seek the consent of the

*customer* to proceed if:

*consumer* to proceed *if the latter does not make use of his right to terminate the contract pursuant to Article [...] (list of remedies of the customer)* if:

## **Amendment 186**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 2 – Article 152 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the cost of the related service would be greater than already indicated by the service provider to the *customer*; or

(a) the cost of the related service would be greater than already indicated by the service provider to the *consumer*; or

## **Amendment 187**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 2 – Article 152 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. A service provider who fails to obtain the consent of the *customer* in accordance with paragraph 1 is not entitled to a price exceeding the cost already indicated or, as the case may be, the value of the goods or digital content after the related service has been provided.

2. A service provider who fails to obtain the consent of the *consumer* in accordance with paragraph 1 is not entitled to a price exceeding the cost already indicated or, as the case may be, the value of the goods or digital content after the related service has been provided.

## **Amendment 188**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 2 – Article 152 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. The level of costs indicated for the related service shall be binding, unless explicitly stated otherwise. The binding figure indicated for such costs may not be*

*exceeded.*

*Justification*

*Consumers need a particularly high level of protection in respect of estimates of costs. In addition to non-binding estimates, which may be exceeded pursuant to Article 152(1) and (2), provision should be made for binding estimates. The trader must be required to state clearly whether an estimate is non-binding.*

**Amendment 189**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 3 – Article 153**

*Text proposed by the Commission*

*Amendment*

*Article 153*

*deleted*

*Payment of the price*

*1. The customer must pay any price that is payable for the related service in accordance with the contract.*

*2. The price is payable when the related service is completed and the object of the related service is made available to the customer.*

**Amendment 190**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 3 – Article 154**

*Text proposed by the Commission*

*Amendment*

*Article 154*

*deleted*

*Provision of access*

*Where it is necessary for the service provider to obtain access to the customer's premises in order to perform the related service the customer must provide such access at reasonable hours.*

## Amendment 191

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 4 – Article 155 – title

*Text proposed by the Commission*

*Amendment*

Remedies of the *customer*

Remedies of the *consumer*

## Amendment 192

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 4 – Article 155 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. In the case of *non-performance of an obligation* by the service provider, the *customer* has, *with the adaptations set out in this Article*, the *same remedies as are provided for the buyer in Chapter 11, namely:*

1. In the case of *failure* by the service provider *to perform an obligation in accordance with the contract*, the *consumer* has the *following* remedies:

## Amendment 193

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 4 – Article 155 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Without prejudice to paragraph 3, the *customer's* remedies are subject to a right of the service provider to cure *whether or not the customer is a consumer*.

2. Without prejudice to paragraph 3, the *consumer's* remedies are subject to a right of the service provider to cure *pursuant to Article [...] (cure by the seller)*.

## Amendment 194

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 4 – Article 155 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. In the case of incorrect installation ***under a consumer sales contract*** as referred to in ***Article 101*** the consumer's remedies are not subject to a right of the service provider to cure.

3. In the case of incorrect installation as referred to in ***Article [...] (faulty installation in the context of a customer sales contract)***, the consumer's remedies are not subject to a right of the service provider to cure.

## **Amendment 195**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 155 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The ***customer, if a*** consumer, has the right to terminate the contract for any lack of conformity in the related service provided unless the lack of conformity is insignificant.

4. The consumer has the right to terminate the contract for any lack of conformity in the related service provided unless the lack of conformity is insignificant.

## **Amendment 196**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 155 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

***5. Chapter 11 applies with the necessary adaptations, in particular:***

***deleted***

***(a) in relation to the right of the service provider to cure, in contracts between a trader and a consumer, the reasonable period under Article 109 (5) must not exceed 30 days;***

***(b) in relation to the remedying of a non-conforming performance Articles 111 and 112 do not apply; and***

***(c) Article 156 applies instead of Article 122.***

## Amendment 197

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 4 – Article 155 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***5a. Where a sales contract or a contract for the supply of digital content is terminated, any related service contract is also terminated.***

## Amendment 198

### Proposal for a regulation

#### Annex I – Part V – Chapter 15 – Section 4 – Article 156

*Text proposed by the Commission*

*Amendment*

***Article 156***

***deleted***

***Requirement of notification of lack of conformity in related service contracts between traders***

***1. In a related service contract between traders, the customer may rely on a lack of conformity only if the customer gives notice to the service provider within a reasonable time specifying the nature of the lack of conformity.***

***The time starts to run when the related service is completed or when the customer discovers or could be expected to discover the lack of conformity, whichever is later.***

***2. The service provider is not entitled to rely on this Article if the lack of conformity relates to facts of which the service provider knew or could be expected to have known and which the service provider did not disclose to the customer.***

## **Amendment 199**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 157**

*Text proposed by the Commission*

*Amendment*

#### *Article 157*

*deleted*

#### *Remedies of the service provider*

*1. In the case of a non-performance by the customer, the service provider has, with the adaptations set out in paragraph 2, the same remedies as are provided for the seller in Chapter 13, namely:*

*(a) to require performance;*

*(b) to withhold the customer's own performance;*

*(c) to terminate the contract; and*

*(d) to claim interest on the price or damages.*

*2. Chapter 13 applies with the necessary adaptations. In particular Article 158 applies instead of Article 132 (2).*

## **Amendment 200**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 – title**

*Text proposed by the Commission*

*Amendment*

*Customer's right to decline performance*

*Consumer's right to decline performance*

## **Amendment 201**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The **customer** may at any time give notice to the service provider that performance, or further performance of the related service is no longer required.

1. The **consumer** may at any time give notice to the service provider that performance, or further performance of the related service is no longer required.

**Amendment 202**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

2. *Where notice is given under paragraph 1:*

*deleted*

**Amendment 203**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the **customer**, if there is no ground for termination under any other provision, remains liable to pay the price less the expenses that the service provider has saved or could be expected to have saved by not having to complete performance.

(b) the **consumer**, if there is no ground for termination under any other provision, remains liable to pay the price less the expenses that the service provider has saved or could be expected to have saved by not having to complete performance.

**Amendment 204**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 158a**

*Imperative nature of the Directive*

*If the law applicable to the contract is the law of a Member State, consumers may not waive the rights conferred on them by the national measures transposing this Directive.*

*Any contractual terms which directly or indirectly waive or restrict the rights resulting from this Directive shall not be binding on the consumer.*

*Justification*

*In the interests of consistency with Directive 2011/83/EU, the relevant final provisions of that Directive – in amended form – should be incorporated in this Directive. See Article 25 of Directive 2011/83/EU.*

**Amendment 205**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 158b**

**Model Contracts**

*The Commission shall present the standard terms and conditions within [one year] of the transposition of this Directive.*

**Amendment 206**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 c (new)**

*Text proposed by the Commission*

*Amendment*

**Article 158c**

**Information campaign**

*The Commission shall carry out an information campaign to inform*

*businesses at national level about these standards terms for on-line consumer transactions based on the European rules.*

**Amendment 207**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 d (new)**

*Text proposed by the Commission*

*Amendment*

**Article 158d**

***Reporting by the Commission on planned durability***

***By [...], the Commission shall***

***(a) undertake research to identify, analyse and assess the impact of planned durability on the life cycle of products, and***

***(b) submit a report to the European Parliament on the transposition of this Directive with the necessary measures to address the problematic of planned durability of products.***

*Justification*

*Planned durability is a current practice which aims at reducing the life cycle of a product. This problem is not addressed by the current acquis. Consequently, it is necessary to assess how this practice would affect the life cycle of the product vis-à-vis the existing guarantee rights (e.g. products designed to fail after the two-year legal guarantee in those Member States that have transposed the minimum period of the 1999 Consumer Sales Directive) and what are the necessary measures to discourage or penalise planned durability.*

**Amendment 208**

**Proposal for a regulation**

**Annex I – Part V – Chapter 15 – Section 4 – Article 158 e (new)**

*Text proposed by the Commission*

*Amendment*

**Article 158 e**

### ***Right of redress***

***1. Where the final seller is liable to the consumer because of a lack of conformity resulting from an act or omission by the producer, a previous seller or any other intermediary, the final seller shall be entitled to pursue remedies against the person or persons liable in the contractual chain.***

***2. Member States shall establish the remedies referred in paragraph 1 and conditions of exercise.***

### ***Justification***

*This amendment incorporates Article 4 of the 1999 Consumer Sales Directive.*

## **Amendment 209**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 f (new)**

*Text proposed by the Commission*

*Amendment*

### ***Article 158f***

#### ***Enforcement***

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

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

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

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

***(c) professional organisations having a legitimate interest in acting.***

*Justification*

*See Article 23 of Directive 2011/83/EU.*

## **Amendment 210**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 g (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 158g***

##### ***Penalties***

***1. Member States shall impose penalties for infringements of the national provisions adopted on the basis of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.***

***2. Member States shall notify those provisions to the Commission by [...] and shall notify it without delay of any subsequent amendment affecting them.***

*Justification*

*See Article 24 of Directive 2011/83/EU.*

## **Amendment 211**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 h (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 158 h***

***Reporting and review of unfair contract***

*terms legislation*

*By [...], the Commission shall submit a report to the European Parliament on the application of Directive 93/13/EEC on unfair terms in consumer contracts in different sectors which fall within its scope of application, and as appropriate, present proposals to the European Parliament and the Council for amending it.*

*Justification*

*The Unfair Contract Terms Directive is the horizontal EU legislation regulating consumer contract terms and conditions across different sectors. As a part of the revision of the Consumer Acquis, the European Commission should make an assessment of the application of this legislation to identify problems in consumer contracts in different markets (e.g. supply of digital content, telecommunication service, energy, etc.) which should be addressed in a possible revision of Directive 93/13/EEC.*

## **Amendment 212**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 i (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 158i**

***Reporting by the Commission and review***

***By [...], the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. The report shall be accompanied, where necessary, by legislative proposals to adapt this Directive to developments in the field of consumer rights.***

*Justification*

*There should be a specific requirement for the Commission to report, in order to inform the EU's legislative bodies, the Council and the European Parliament, adequately about the application of this Directive and developments relevant to it, and, if necessary, propose further amendments.*

## **Amendment 213**

### **Proposal for a regulation**

#### **Annex I – Part V – Chapter 15 – Section 4 – Article 158 j (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 158j**

##### **Implementation aspects**

***(1) By [...] Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of these measures in the form of documents. For the purposes of the report referred to in Article [...] (Reporting by the Commission and review), the Commission shall make use of these documents.***

***It shall apply these measures from [...].***

***When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.***

***(2) The provisions of this Directive shall apply to consumer sales contracts concluded after [...].***

*Justification*

*See Article 28 of Directive 2011/83/EU.*

## **Amendment 214**

### **Proposal for a regulation**

#### **Annex I – Part VI – Chapter 16 – Section 1**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

#### **Amendment 215**

##### **Proposal for a regulation Annex I – Part VI – Chapter 16 – Section 2**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

#### **Amendment 216**

##### **Proposal for a regulation Annex I – Part VI – Chapter 16 – Section 3**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

#### **Amendment 217**

##### **Proposal for a regulation Annex I – Part VII – Chapter 17**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

#### **Amendment 218**

##### **Proposal for a regulation Annex I – Part VIII – Chapter 18**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

## **Amendment 219**

### **Proposal for a regulation Annex I– Appendix 1**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

#### *Justification*

*The right of withdrawal is already regulated in Directive 2011/83/EU.*

## **Amendment 220**

### **Proposal for a regulation Annex I– Appendix 2**

*Text proposed by the Commission*

*Amendment*

#### ***Model withdrawal form***

*deleted*

***(complete and return this form only if you wish to withdraw from the contract)***

***– To [here the trader’s name, geographical address and, where available, his fax number and e-mail address are to be inserted by the trader]:***

***– I/We\* hereby give notice that I/We\* withdraw from my/our\* contract of sale of the following goods\*/for the supply of the following digital content/for the provision of the following related service\****

***– Ordered on\*/received on\****

***– Name of consumer(s)***

***– Address of consumer(s)***

***– Signature of consumer(s) (only if this***

*form is notified on paper)*

*– Date*

*\* Delete as appropriate.*

*Justification*

*The right of withdrawal is already regulated in Directive 2011/83/EU.*

**Amendment 221**

**Proposal for a regulation**  
**Annex II**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

## PROCEDURE

<b>Title</b>	Common European Sales Law			
<b>References</b>	COM(2011)0635 – C7-0329/2011 – 2011/0284(COD)			
<b>Committee responsible</b> Date announced in plenary	JURI 25.10.2011			
<b>Opinion by</b> Date announced in plenary	IMCO 25.10.2011			
<b>Associated committee(s) - date announced in plenary</b>	24.5.2012			
<b>Discussed in committee</b>	31.5.2012	24.9.2012	21.2.2013	21.3.2013
	30.5.2013	18.6.2013		
<b>Date adopted</b>	9.7.2013			
<b>Result of final vote</b>	+: -: 0:	22 17 1		
<b>Members present for the final vote</b>	Claudette Abela Baldacchino, Pablo Arias Echeverría, Adam Bielan, Preslav Borissov, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Thomas Händel, Małgorzata Handzlik, Philippe Juvin, Sandra Kalniete, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Franz Obermayr, Sirpa Pietikäinen, Phil Prendergast, Robert Rochefort, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler			
<b>Substitute(s) present for the final vote</b>	Jürgen Creutzmann, Ashley Fox, María Irigoyen Pérez, Othmar Karas, Roberta Metsola, Olle Schmidt, Olga Sehnalová, Marc Tarabella, Sabine Verheyen			
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Diane Dodds, Francesco Enrico Speroni, Cornelis de Jong			