CONSUMER PROTECTION MEASURES

European measures for consumer protection are intended to protect the health, safety, and economic and legal interests of European consumers, wherever they live, travel or shop in the EU. EU provisions regulate both physical transactions and e-commerce, and contain rules of general applicability together with provisions targeting specific products, including medicines, genetically modified organisms, tobacco products, cosmetics, toys and explosives.

LEGAL BASIS

Articles 114 and 169 of the Treaty on the Functioning of the European Union (TFEU).

OBJECTIVES

To ensure that all consumers in the Union - wherever they live, travel or shop in the EU - enjoy a high common level of protection against risks and threats to their safety and economic interests, and to increase the ability of consumers to defend their own interests.

ACHIEVEMENTS

A. Protection of consumers’ health and safety

1. EU actions in the field of public health and tobacco (2.2.4)
2. Foodstuffs (2.2.6)
3. Medicinal products (2.2.5)
4. General Product Safety System and market surveillance

Directive 2001/95/EC provides for a General Product Safety System whereby any consumer product put on the market, even if it is not covered by specific sector legislation, must meet certain standards relating to the provision of information to consumers, measures to avoid threats to safety, monitoring of product safety, and traceability. If a product poses a serious threat necessitating quick action, the relevant Member State must immediately inform the Commission via RAPEX, a system for the rapid exchange of information between Member States and the Commission. In June 2021 the Commission adopted a proposal for a regulation on general product safety with a view to revising the General Product Safety Directive (GPSD). The proposed regulation will ensure continuity with the GPSD by requiring that consumer products be ‘safe’, setting certain obligations for economic operators, including online...
marketplaces, and setting out provisions for the development of standards in support of the general safety requirement. It will update and modernise the general framework for the safety of non-food consumer products and ensure a level playing field for businesses.

5. Safety of cosmetic products, explosives for civilian use and toys


6. Affordable communications for businesses and consumers (2.1.8)

B. Protection of consumers’ economic interests

1. Information society services, electronic commerce and electronic and cross-border payments

Directive 2000/31/EC (the E-Commerce Directive) covers the liability of providers (established in the EU) of online services, online electronic transactions, and other online activities, such as the provision of news, database and financial services, professional services, entertainment services (video on demand), direct marketing and advertising services, and internet access. It will be modernised by the Digital Services Act Directive (EU) 2015/2366 on cross-border credit transfers and Regulation (EU) 2021/1230 on cross-border payments ensure that charges for cross-border payments in euros are the same as those for payments made in that currency within a Member State.

2. TV without frontiers

Directive 2010/13/EU ensures the free movement of broadcasting services while preserving certain public interest objectives, such as cultural diversity, the right of reply, consumer protection and the protection of minors. Its provisions relate to, for example, advertisements for alcoholic beverages, tobacco and medicines, teleshopping, and programmes involving pornography or extreme violence. Events of major importance for society are to be broadcast freely in un-encoded form, even if exclusive rights have been purchased by pay TV channels.

3. Distance selling contracts and contracts negotiated away from business premises, the sale of goods and guarantees, and unfair terms in contracts

the Commission put forward a proposal for a directive to replace and modernise Directive 2002/65/EC, which regulates the distance marketing of consumer financial services. The EU institutions are currently negotiating on this proposal.

4. Unfair commercial practices and comparative and misleading advertising

Directive 2005/29/EC on unfair commercial (business-to-consumer) practices prohibits misleading and aggressive practices, ‘sharp practices’ (such as pressure selling, misleading marketing and unfair advertising) and practices which use coercion as a means of selling. It includes criteria for determining aggressive commercial practices (harassment, coercion and undue influence) and a ‘blacklist’ of unfair commercial practices. Directive 2006/114/EC concerning misleading and comparative advertising prohibits misleading advertisements. It also lays down the conditions under which comparative advertising is permitted. A Commission communication of 27 November 2012 (COM(2012)0702) proposed a review of Directive 2006/114/EC to tackle the loopholes in the text and focus on the problem of misleading directory companies. At the end of 2019, the new Directive (EU) 2019/2161 was adopted as regards the better enforcement and modernisation of Union consumer protection rules. This new directive amended Council Directive 93/13/EEC (on unfair terms in consumer contracts) and Directives 98/6/EC (on consumer protection in the indication of the prices of products offered to consumers), 2005/29/EC (concerning unfair business-to-consumer commercial practices in the internal market) and 2011/83/EU (on consumer rights) of the European Parliament and of the Council. With regard to unfair practices, in April 2022, the Committee on the Internal Market and Consumer Protection (IMCO) held a public hearing on upholding consumer rights when shopping outside the EU, seeking to map out the challenges consumers face when buying from outside the EU.

5. Liability for defective products and price indication

Directive 1999/34/EC establishes the principle of objective liability or liability without fault of the producer in cases of damage caused by a defective product. The injured consumer seeking compensation needs to prove the damage, a defect in the product and a causal link, within three years. Directive 98/6/EC on unit prices obliges traders to indicate sale prices and prices per measurement unit in order to improve and simplify comparisons of price and quantity between products on the market. Directive 1999/44/EC established product guarantees for consumers by requiring traders selling consumer goods in the EU to remedy defects which existed at the time of delivery and which become apparent within two years. This directive was updated in 2011, then repealed and replaced by Directive (EU) 2019/771.

6. Consumer credit and mortgage credit

Directive 2008/48/EC ensures that creditors have to use the same Standard European Consumer Credit Information, i.e. a form containing all relevant information about the contract, including the cost of credit and the annual percentage rate charged. Consumers are allowed to withdraw from a credit agreement without giving any reason within a period of 14 days after the conclusion of the contract and they can repay their credit early at any time, while the creditor can ask for fair and objectively justified compensation. In June 2021, the European Commission proposed an update to the existing rules (COM(2021)0347). The proposal extends the scope of the current
Consumer Credit Directive to cover a wider range of products which may pose a risk to consumers. It also promotes a reduction in the amount of information provided to consumers in advertising and focuses on how and when pre-contractual information is presented to consumers. The proposal also improves the rules through which creditworthiness is assessed, and asks Member States to promote financial education and ensure that debt advice is made available to consumers.

**Directive 2014/17/EU** on credit agreements for consumers relating to residential immovable property lays down a common framework for agreements covering consumer credit secured by a mortgage or otherwise relating to a residential immovable property. It aims to create an efficient single mortgage market for the benefit of consumers, and establishes conditions to ensure a high level of professionalism on the part of lenders and credit intermediaries.[1]

7. Package holidays, timeshare properties and short-term accommodation rental services

**Directive (EU) 2015/2302** protects consumers’ core rights when booking a package holiday or other forms of combined travel, for example, where a booking is made on a website for a self-chosen combination of a flight plus hotel or car rental. **Directive 2008/122/EC** on timeshares, long-term holiday products, resale and exchange covers the trader’s obligation to provide information on the constituent parts of the contract, and the consumer’s right to withdraw without any costs and without giving any reason, within 14 calendar days. In addition to the above, the Commission issued, in November 2022, a proposal for a regulation on data collection and sharing relating to short-term accommodation rental services. While short-term accommodation bookings offer benefits for hosts and tourists, they can create issues for local communities struggling, for instance, with a lack of affordable housing. The new rules will improve the collection and sharing of data from hosts and online platforms. In turn, this will allow effective and proportionate local policies to address the challenges and opportunities related to the short-term rental sector.

8. Air transport

**Regulations (EC) No 261/2004** and **(EC) No 2027/97** (as amended) established common rules on compensation and assistance to passengers in the event of denied boarding, cancellation or long flight delays, and on air carrier liability in the event of accident. **Regulation (EC) No 80/2009** on computerised reservation systems (CRS) for air transport products established obligations for system vendors (to allow all carriers to participate on an equal basis) and for carriers (to communicate with equal care and timely information to all systems). Regulation (EC) No 80/2009 introduced common criteria and procedures for establishing the airfares and air cargo rates charged by air carriers on air services within the Community. **Regulation (EC) No 300/2008** introduced common rules in the field of civil aviation security standards following the terrorist attacks of 11 September 2001.

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9. Energy markets

The third package of EU energy market legislation (adopted in 2009) was enacted to improve the functioning of the internal energy market and resolve structural problems. It covered five main areas, including increased transparency in retail markets in order to benefit consumers. Directive 2012/27/EU empowers energy consumers to better manage consumption by ensuring easy and free access to data on consumption through individual metering. Regulation (EU) 2017/1369 is intended to ensure that complex information on the energy consumption and performance of specified domestic appliances is presented in a clear and understandable format, allowing consumers to make informed purchasing decisions so that they can opt for the most efficient appliances. Within the EU’s internal energy market, all EU citizens have the right to have their homes connected to energy networks and to choose freely any gas or electricity supplier offering services in their area.

10. European Consumer Centres Network (ECC Network or ‘Euroguichets’) and Your Europe Portal

The ECC Network provides consumers with information and assistance in respect of cross-border transactions. This network also works with other European networks, notably FIN-NET (financial), SOLVIT (internal market) and the European judicial network in civil and commercial matters. The Your Europe portal provides comprehensive information for consumers on contract rights, telecom and internet services, financial products and services, possible unfair treatment, energy supply and consumer dispute resolution. Further improvements were introduced with the Single Digital Gateway (Regulation (EU) 2018/1724).

C. Protection of consumers’ legal interests

1. Alternative dispute resolution procedures and online dispute resolution

Alternative dispute resolution (ADR) procedures are out-of-court settlement mechanisms that help consumers and traders solve conflicts, mostly through a third party, e.g. a mediator, arbitrator or ombudsman. Recommendation 98/257/EC, Decision No 20/2004/EC and Council Resolution 2000/C 155/01 lay down the principles to be followed in ADR proceedings, aimed at guaranteeing the individual consumer cheaper and faster remedies. Directive 2009/22/EC on injunctions for the protection of consumers’ interests harmonises existing EU and national law and, in order to protect the collective interests of consumers, introduces the ‘action for injunctions’, which can be opened at the competent national court level against infringements by commercial operators from other countries. Directive 2013/11/EU on alternative dispute resolution for consumer disputes gives consumers the possibility of turning to quality alternative dispute resolution entities for all kinds of contractual disputes with businesses over an online or offline, domestic or cross-border purchase. Regulation (EU) No 524/2013 on online dispute resolution enables EU consumers and traders to settle online disputes concerning domestic and cross-border purchases, through an EU-wide dispute resolution platform to which ADR bodies have been able to sign up since February 2016.
2. European judicial network in civil and commercial matters and obligation for national authorities to cooperate

Decision 2001/470/EC established a European judicial network to simplify the life of citizens facing cross-border litigation by improving the mechanisms for judicial cooperation between Member States in civil and commercial matters and providing them with practical information to facilitate their access to justice. Regulation (EC) No 2006/2004 established a network of national authorities responsible for the effective enforcement of EU consumer protection law and, since 29 December 2005, has obliged them to cooperate in guaranteeing the enforcement of EU law and, in the case of intra-EU infringements, to stop any infringement by means of appropriate legal instruments such as injunctions.

3. Representative actions for the protection of the collective interests of consumers

Directive 2009/22/EC harmonised actions for an injunction aimed at the protection of the collective interests of consumers. Directive 2014/104/EU ensured that anyone who has suffered harm caused by an infringement of competition law can effectively exercise the right to claim full compensation. Directive (EU) 2020/1828 expanded the scope of the injunctions system in order to cover various horizontal and sector-specific EU instruments relevant to the protection of the collective interests of consumers and laid down procedures for compensatory redress.

D. Measures implemented following the COVID-19 outbreak

Due to the increasing irregularities in online offers throughout the pandemic, consumer protection authorities in the Member States, with the support of the Commission, issued a Consumer Protection Cooperation (CPC) common position asking online platforms to take effective measures to remove illegal marketing campaigns. A joint communication entitled ‘Tackling COVID-19 disinformation – Getting the facts right’ also highlighted the need to fight against disinformation to protect consumers.

Due to disruptions caused by the reintroduction of border controls and travel restrictions, the Commission issued guidelines on 18 March 2020 to ensure that EU consumers’ rights are applied consistently across the EU. The EU is the only area in the world where citizens are protected by a full set of passenger rights – whether they travel by air, rail, ship, bus or coach. Carriers have to offer reimbursement (refund of tickets) or re-routing to passengers whose service has been cancelled.

ROLE OF THE EUROPEAN PARLIAMENT

Parliament is actively involved in developing and strengthening EU consumer protection legislation while balancing the interests of the markets with those of consumers. Consumer protection measures are encapsulated by the New Consumer Agenda 2020-2025, as well as the New Deal for Consumers, the European Green Deal, and the Circular Economy Action Plan, among other initiatives.

European consumers are also beneficiaries of actions and instruments aimed at strengthening various aspects of the EU internal market. These include a significant number of instruments developed as a part of the digital single market initiative, combining strictly consumer-oriented measures with market design measures: the
Parliament called for a revision of the General Product Safety Directive (GPSD) in its resolution of 25 November 2020 on addressing product safety in the single market. It urged the Commission to update and establish aligned market surveillance rules for both harmonised and non-harmonised products placed on the market offline or online, and to make them fit for the digital age, and to adapt product safety rules to tackle the challenges of emerging technologies such as artificial intelligence, connected products and robotics. In June 2022, the Policy Department for Economic, Scientific and Quality of Life Policies released a study for the IMCO Committee in which its authors call for a review of the GPSD and elaborate on how new technologies may affect product safety, requiring a more comprehensive legislative framework.

Parliament has held many debates concerning consumer protection in the light of the digital revolution. At the request of the IMCO Committee, a workshop entitled ‘E-commerce rules, fit for the digital age’ was organised by the Policy Department for Economic, Scientific and Quality of Life Policies on 18 February 2020, accompanied by a number of studies on the future Digital Services Act. Experts and stakeholders insisted on the need to put in place strong consumer protection measures for online marketplaces via the Digital Services Act.

A wide variety of research has been undertaken recently in relation to consumer protection. On 27 October 2020, a study entitled ‘Loot boxes in online games and their effect on consumers, in particular young consumers’ was presented to Members followed by question and answer sessions. Loot boxes are features in video games which are usually accessed through gameplay, or which may be optionally paid for with real-world money. As they make use of random reward mechanisms, there is concern that loot boxes may function as a gateway to gambling, and may be particularly harmful to young consumers. On 19 December 2022, the IMCO Committee adopted a draft implementation report on consumer protection in online video games, considering the matter from a European internal market perspective.

A briefing published in January 2021 entitled ‘Reimbursement and compensation in case of transport cancellation or delay: rights and their enforcement’ outlines consumer protection measures in the context of travel.
rights under EU law in the event of transport cancellation with specific reference to the COVID-19 pandemic, as well as providing practical guidance for consumers.

A study[6] on the impact of targeted advertising on advertisers, market access and consumer choice explored the dynamics of the online advertising market. In relation to consumer protection, it analysed how features such as personalised advertising, micro-targeted and behavioural advertising, and digital nudging may impact prices and consumer choice. The study found that targeting techniques may benefit consumers by tailoring advertisements to their interests. Targeted advertising also raises a number of concerns, however. These include a lack of transparency on consumer data usage, the targeting of vulnerable groups of consumers, and design features which seek to steer consumers to make decisions at odds with their interests (dark patterns). With regard to dark patterns in particular, in March 2022, the IMCO Committee held a public hearing aiming to identify the risks that this practice entails for consumers.

On 28 October 2021, the IMCO Committee held a public hearing on dual quality of goods in the single market. Experts (e.g. from consumer associations and business organisations) highlighted the challenges that dual quality practices have created, both for consumers and the industry, for example in terms of consumer information about the differentiation of goods. They also discussed how to raise consumer awareness of the issue.

A month later, on 9 December 2021, the IMCO Committee voted on the draft implementation report on the Toy Safety Directive to ensure that only safe toys can be placed on the Union’s market.

In February 2022, a study[7] on the impact of influencers on advertising and consumer protection in the single market was published. It investigates to what extent influencers are responsible for spreading misleading information and the promotion of unsafe products. The influencer marketing industry, which has grown significantly in recent years, often employs misleading messages to draw in vulnerable consumers. The recent provisional political agreements on the Digital Services Act and the Digital Markets Act focus on increasing transparency and regulating online platform gatekeepers respectively, two sensitive areas in the sphere of activity of influencers.

In September 2022, a study[8] was published by the Policy Department for Economic, Scientific and Quality of Life Policies, analysing overdraft facilities and overrunning in the EU, in particular in terms of their implications for consumer protection. The findings were that interest rates for these types of financial services vary considerably among the Member States. The authors called for stricter and fairer regulation on the matter (especially in Member States where the interest rates are the highest).

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For more information on this topic, please see the website of the Committee on Internal Market and Consumer Protection.

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