CONSUMER PROTECTION MEASURES

European measures for consumer protection are intended to protect the health and 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.

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

Regulation (EC) No 1223/2009 ensures the safety of cosmetic products, together with consumer protection, by providing for ingredient inventories and informative
labelling. Most of the regulation's provisions were applicable by 11 July 2013. Safety requirements for explosives for civilian use and similar products are set out in Directives 93/15/EEC, 2008/43/EC and 2004/57/EC, and in Decision 2004/388/EC, recast by the Explosives for Civil Uses Directive (2014/28/EU) and by the Pyrotechnic Articles Directive (2013/29/EU). Toy safety requirements are laid down in Directive 2009/48/EC. The European Committee for Standardisation (CEN) revises and develops the relevant standards.

6. European surveillance and information exchange systems

Council Decisions 93/683 and 93/580 established the European Home and Leisure Accident Surveillance System (EHLASS) for the collection of data on accidents occurring in the home or during leisure activities, and the Community system for the exchange of information in respect of certain products which may jeopardise consumers’ health or safety (excluding pharmaceuticals and products for trade use).

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 upcoming Digital Services Act. Directive (EU) 2015/2366 on cross-border credit transfers and Regulation (EC) No 924/2009 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

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](https://eur-lex.europa.eu/lexUriServ URN:oio:doc:uri:CELEX:52012DC0702:en)) 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.

5. Liability for defective products and price indication

**Directive 1999/34/EEC** 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** establishes 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.

6. Consumer credit and mortgage credit

**Directive 2008/48/EC** aims to ensure uniformity in the level of protection of the rights enjoyed by consumers in the single market. It provides for a comprehensible set of information to be given to consumers in good time before the contract is concluded and also as part of the credit agreement. 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.

**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 and timeshare properties

Directives (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.

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.

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 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, after a decade of reflection[2], 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 in a coherent manner 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 Regulations on Roaming Charges, the Regulation on the Promotion of Internet Connectivity in Local Communities, the Regulation on the Portability of Online Content, the Cross-border Parcel Delivery Regulation, the General Data Protection Regulation, the Geo-blocking Regulation, the European Electronic Communications Code, the Regulation on the Free Flow of Non-personal Data, and the Directive on Copyright in the Digital Single Market[3].

Parliament has held many debates concerning consumer protection in the light of the digital revolution. At the request of the Committee on the Internal Market and Consumer Protection, 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[4] 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 on ‘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.

A briefing published in January 2021 entitled ‘Reimbursement and compensation in case of transport cancellation or delay: rights and their enforcement’ outlines consumer 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.

An upcoming study on the impact of targeted advertising on advertisers, market access and consumer choice aims to explore the dynamics of the online advertising market. In relation to consumer protection, it will analyse how features such as personalised advertising, micro-targeted and behavioural advertising, and digital nudging may impact prices and consumer choice. It will also address the extent to which existing legislation addresses the concerns raised and make recommendations for future regulatory responses to protect consumers in the EU.

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