



Background

Consumer rights: what the new EU rules will mean

An EU-wide right for consumers to change their minds about a purchase made on line within two weeks after having received the good, new requirements that compel on-line traders to provide the consumer with exact information on the total price, the goods ordered and the contact details of the trader, are among the benefits of the new Consumer Rights Directive. The new rules aim to strengthen protection for online buyers so as to boost consumer confidence and cross-border on-line trade.

In 2010, 40% of EU consumers bought online goods and services over the internet in compared to 26% in 2006, making the internet the most frequently-used distance-selling medium today. However, only 7% of internet users have placed cross-border orders within the EU.

Concerns about late or non-delivery of goods, as well as the patchwork fragmentation of Member States' consumer protection rules, are holding consumers back from cross-border online shopping. Businesses, too, cite legislative differences among Member States as the main reason for not selling across borders.

After two and half years of tough negotiations, Parliament's negotiating team, led by MEP Andreas Schwab (EPP,DE), managed to broker a well-balanced agreement with the Council to ensure clear and common rules on consumer rights across the EU. This deal was overwhelmingly approved by the Internal Market Committee on 16 June and in plenary on 23 June.

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14 days to change your mind

The new rules will stipulate a 14-day EU-wide withdrawal period for distance and off-premises sales (i.e. those in which the consumer cannot see the good before buying it), during which consumers may change their minds. If they regret the purchase, for whatever reason, they may return it. The price paid by the consumer for the good must be refunded within 14 days of the withdrawal. This is a major step forward for consumer rights.

MEPs sought to insert a rule that would have required traders to pay the return costs of any goods priced above €40, but this proved unacceptable to the Council. Instead, MEPs proposed to Council, as a final offer, that the cost of returning any bulky item which cannot be returned by normal postage be clearly stated in the sales contract, so the consumer knows how much it will cost should he choose to return his purchase. If the trader does not comply with the information requirement, the consumer will not have to bear the costs.

Moreover, if a seller fails to inform a consumer about the withdrawal right, the period for withdrawal will automatically be extended to one year, as originally proposed by Parliament.

The new rules also aim to close a gap in existing EU legislation, by extending the consumer's right of withdrawal to home party sales and on-line auctions. However, auction purchases may be returned only if they were bought from a professional seller, not from a private person.

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Exceptions to the withdrawal right

Exempted from the right of withdrawal are, for instance, magazines, with the exception of subscription contracts, car rentals, airline tickets and hotel bookings, goods which deteriorate or expire rapidly, such as foodstuffs or flowers, and customized goods, such as a tailored dress or a made-to-measure coffee table.

Digital goods, such as music, films or software programmes, will also be exempted from the right of withdrawal. The sale will be regarded as irreversible from the moment downloading begins.

When cancelling a service, for example when a painter has done only half the job, the consumer should pay a share of the bill equivalent to the proportion of the work already done by the service provider.

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Delivery and responsibility for the parcel

Delivery is where many consumers experience disappointment. Under the new rules, any good ordered at a distance must be delivered to the buyer within 30 days, otherwise the consumer will have the right to cancel the purchase. The trader is responsible for any damage or loss of the good during delivery.

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The right to make informed choices

It should be clear to consumers from whom they are buying, exactly what they are buying and how much it will cost when shopping online or ordering from a catalogue. The identity and address of the seller must always be clear.

The new information rights will also put an end to hidden charges, such as those associated with the "pre-ticked boxes" sometimes used in internet sales. In addition, the buyer will have to knowingly accept the total price before a sale is concluded.

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No extra red tape for small firms and tradesmen

To avoid creating administrative burdens for the local grocer or the workman doing home repairs, "day-to-day transactions" where the good is delivered "immediately" will be exempted from the information rules. If a consumer calls a tradesman to deliver a service at his home, such as replacing a broken window with a new pane, at a cost of less than €200, the information need not be in writing, but may be delivered orally.

For urgent repairs, such as a burst water pipe, a right of withdrawal is considered inappropriate and will thus not apply.

Background

Origins of the proposal

The new Consumer Rights Directive updates and merges 2 existing directives, on Distance Selling (1985) and Doorstep Selling (1997) that set out certain minimum requirements. Over the years, EU Member States have added further, uncoordinated requirements, making consumer rights law into a patchwork of 27 differing national regimes. Also, as the original directives predated the digital revolution, consumers today are poorly protected when shopping on line.

In October 2008 the European Commission tabled a proposal with the dual aim of ensuring a high level of consumer protection and facilitating the smooth operation of the single market. The new rules will improve the rights of on-line shoppers in particular, and hence should boost consumer confidence and cross-border on-line trade.

For the first time, rules on delivery and transfer of risk will be covered by common EU rules, and consumers across Europe will have a 14-day withdrawal right for goods bought at a distance.

Healthcare and social services, gambling, financial services, and real estate are exempted from the scope of the directive. Passenger transport is covered only in so far as hidden costs and fees are prohibited (e.g. by ruling out "pre-ticked boxes") and web sites must be designed in such a way as to inform a consumer unambiguously when and what he must pay for his tickets.