

EDiMA position on the European Commission proposal for a Directive on consumer rights ((COM(2008)614)/(2008/0196/COD))

EDiMA welcomes the Commission's proposal for a Directive on consumer rights

- A harmonised and coherent legislative framework will benefit consumers dramatically by facilitating the development of a more robust marketplace marked by **lower prices, greater consumer choice, and higher levels of consumer confidence with respect to cross-border, and specifically online, commerce.**
- The current situation, as identified by the Commission, is a fragmented regulatory framework that creates significant barriers to cross-border trade which is detrimental to both consumers and businesses.
- Addressing the regulatory obstacles behind the current fragmentation requires a balanced approach aimed at establishing a **clear and strong set of consumer rights** that would apply across the EU providing businesses, particularly SMEs, **greater legal certainty** for taking further advantage of the opportunities provided by the Internal Market.

EDiMA strongly supports the full harmonisation approach

- A requirement to comply with 27 sets of national laws and regulations hinders both the creation of a dynamic information economy in the European Union and the rollout of new services to consumers
- Providing consumers with **a clear, standardised set of rights that can be exercised from wherever they may be located in the EU** and which are marked by strong levels of consumer protection will increase cross-border online transactions thereby creating a more dynamic and robust market for consumers and businesses alike.
- Standardised rules would make it easier for businesses across the EU to engage in cross-border e-commerce.
- SME's which may have previously restricted themselves to their domestic markets, as a result of legal complexity and high compliance costs, will be able to more confidently offer their products and services cross-border and take advantage of the benefits of the Internal Market.

A Mutual Recognition mechanism or an Internal Market clause should be included in the proposed Consumer Rights Directive

- The inclusion of an Internal Market clause would provide additional legal certainty for cross-border E-Commerce operators and be an additional step towards providing the basis for a true Internal Market for consumers and business alike.

EDiMA supports the harmonisation of right of withdrawal and cooling-off periods

- EDiMA believes standardised rules with respect to right of withdrawal and cooling-off periods would increase consumer confidence and cross-border transactions, particularly online, in Europe.
- The key to ensuring the benefits of such harmonised rules is making certain that consumers are made aware of these rights.
- EDiMA applauds the Commission for recognising the **specific nature of online media and digital services**, and excluding, for example, digital downloads from the right of withdrawal and cooling-off provisions.
- It should be made clear that a digital services exemption from the right of withdrawal and cooling-off provisions **does not impact on consumer's right of redress which is distinct and which EDiMA supports**. If a consumer purchases or receives a digital service which does not conform to the contract or advertised description, it should be clear and easy for the consumer to contact the seller and seek and receive the appropriate refund or acceptable remedy.

EDiMA supports harmonisation in the area of pre-contractual information and believes the presentation of transparent and clear information to the consumer is both necessary and highly desirable from a business perspective

- **Information requirements must take into account, however, the specific nature of digital products and services (versions of which are often updated and/or downloaded automatically)** and the devices on which these are offered or accessed.
- The Commission's proposal rightly makes a distinction with regard to information requirements and their extension to Mobile- and Tele-commerce, highlighting the technical nature of such platforms and the feasibility of making such information available to consumers in other locations or through different formats.
- Technical developments and innovation allow consumers to access new services anytime and anywhere through an increasing variety of devices and media. For example, as devices become smaller and new business models emerge to meet consumer demand for greater convenience, regulation needs to find flexible and modern ways to balance the need for consumers to have sufficient information to make informed choices and their desire to take advantage of new services presented in convenient formats.

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