

# Public consultation for the Fitness Check of EU consumer and marketing law

Fields marked with \* are mandatory.

## Introduction

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In the context of the 'Fitness Check' of EU consumer and marketing law directives the Commission seeks views on whether these rules are still up to date and fit for purpose. The following six directives are subject to this Fitness Check:

- Unfair Contract Terms Directive [93/13/EEC](#);
- Consumer Sales and Guarantees Directive [1999/44/EC](#);
- Unfair Commercial Practices Directive [2005/29/EC](#);
- Price Indication Directive [98/6/EC](#);
- Misleading and Comparative Advertising Directive [2006/114/EC](#);
- Injunctions Directive [2009/22/EC](#).

In addition, this consultation covers also the Consumer Rights Directive [2011/83/EU](#), which is subject to a separate evaluation.

When the consultation questionnaire refers to **EU consumer and marketing law or rules**, this term covers the six EU directives that are subject to the Fitness Check as well as the Consumer Rights Directive.

Link to a [short description of the Directives](#).

The results of this public consultation will also feed into the currently ongoing legislative process on the [Commission Proposal for a Directive on certain aspects concerning contracts for the online and other distance sales of goods](#).

This consultation is open until **2 September 2016**.

You can reply in any EU official language.

The consultation consists of **short questionnaires** for (1) consumers (citizens) and (2) businesses. Other respondents (associations, authorities etc.) will be asked to fill in the **full version**. The full version is optional for consumers (citizens) and businesses.

When answering a question, you will be asked to tick one of the provided multiple choice replies. You can choose "do not know/no opinion" as a reply. You will also be able to add comments.

You can pause and save your work and continue later. You can download the questionnaire in PDF format before starting to help you with the preparations or discussions within your organisation. You will be able to download an electronic copy of your replies.

The European Commission will assess and summarise the responses. The summary will be published on the [webpage of the Fitness Check](#).

Link to the [Privacy statement](#).

The Commission service responsible for the consultation:  
Directorate-General for Justice and Consumers  
Unit E2 "Consumer & Marketing Law"  
e-mail: JUST-NOTIFICATIONS-E2@ec.europa.eu

## About the respondent

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1. Are you replying as / on behalf of:

- a citizen/consumer
- a national consumer association
- a European-level consumer association
- a company (or group of companies)
- a national business association
- a European-level business association
- a national consumer enforcement authority
- a national public enforcement authority in a specific area (energy, telecom etc.)
- a government authority in charge of consumer policy
- another public body /institution
- a professional consultancy/ law firm
- a think tank/ university/ research institute
- other

\*

2. Please provide **your full name** or the **name of the entity** on whose behalf you are replying.

*100 character(s) maximum*

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3. Is the **entity** on whose behalf you are replying registered in the EU [Transparency Register](#)?

- yes
- no

\*

4. Please indicate the **registration number** in the Transparency Register.

*30 character(s) maximum*

64270747023-20

5. Please give your **e-mail address** in case we have questions about your reply and need to ask for clarifications.

info@digitaleurope.org

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6. Please indicate the **country** where you live or, if you reply on behalf of an entity, the country where it has its headquarters/ place of establishment.

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

\*

7. Please indicate whether you agree to the **publication** of your response.

- Under the name indicated** – I agree to the publication of all information in my response
- Anonymously** – I agree to the publication of all information in my response, except the replies to Question 2 (name), Question 4 (registration number) and question 5 (e-mail address)
- No, I do not agree to the publication of my response** - I understand that my anonymised response may be included in any published statistical data, for example, to show general trends in the responses to the consultation

## Full questionnaire

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In your view, to what extent are the following EU consumer and marketing rules **beneficial to consumers**?

	<b>Very beneficial for consumers</b>	<b>Rather beneficial for consumers</b>	<b>Rather not beneficial for consumers</b>	<b>Not beneficial at all for consumers</b>	<b>No opinion / don't know</b>
Right to be protected against <b>misleading or aggressive commercial practices</b>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Right to get <b>adequate information</b> about the goods and services offered, i.e. the main characteristics, the total price, the delivery time, etc.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Right to get information also about the <b>unit price</b> of goods (i.e. for one kilogramme, one litre etc.)</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right to <b>cancel a contract</b> concluded at a distance within 14 days from the delivery goods or conclusion of a service contract (the 'right of withdrawal')</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right to get information about the <b>functionality and interoperability of digital content</b></p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Right to <b>cancel the contract</b> concluded at a distance for the downloading (or streaming) of <b>digital content</b> before its performance begins (the 'right of withdrawal')</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right to be protected against unfair clauses in the "small print" (the 'right to <b>fair standard contract terms</b>' )</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



<p>Right to have a <b>defective good repaired or replaced</b> for free or to obtain a price reduction or refund during the legal guarantee period (in most EU countries 2 years from delivery; longer in some EU countries)</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right of consumer organisations and public bodies <b>to take legal actions</b> which can stop infringements of consumers' rights (the right to seek injunctions)</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
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Please explain your reply, including any other consumer right that wish to highlight (optional)

*1500 character(s) maximum*

DIGITALEUROPE has always emphasised that consumer protection lies in the implementation and enforcement of existing legislation and that new rules should only be drawn where necessary. In this regard, the Fitness Check and the evaluation of the CRD are essential to maintaining a fit for purpose Consumer Acquis as well as to ensure consistency with newly published legislation (e.g digital contracts package).

DIGITALEUROPE believes that consumers currently benefit from a strong consumer and marketing rules framework. All the rights mentioned in the above table are to be considered beneficial for consumers. Furthermore, in addition to such rules, consumer also benefit from sector-specific rules (e.g. telecoms rules, audiovisual media services Directive, etc.).

The consumer sales & guarantees directive provides with a clear indication of available remedies. As a principle there should not be a free choice of remedies available for consumers, but the trader should be first given the option to repair the good. Granting the trader the choice between repair and replacement in the first instance when a product is defective is reasonable and in line with current practice. This rule also avoids situations where in cases of an easily repairable defect, the consumer would be able to opt for direct replacement or refund. This is particularly important for products of high value or personalised products or those that would lose substantial value if returned or resold.

How effective are the legal actions ("**injunctions**") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following **economic sectors**?

	<b>Very effective</b>	<b>Rather effective</b>	<b>Rather not effective</b>	<b>Not effective at all</b>	<b>No opinion / don't know</b>
Online provision of goods, services and digital content	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Communications and internet access services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Financial services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Passenger transport	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Tourism and package travel	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Energy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
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Please explain your reply (optional)

*1500 character(s) maximum*

How important are the following **problems** for protecting the rights of consumers?

	Very important	Rather important	Rather unimportant	Unimportant at all	No opinion / don't know
Consumers don't know/ don't understand their rights	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Traders don't know/ don't understand consumer protection rules	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Traders don't comply with consumer protection rules	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consumer law is too complex	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

There are significant differences between national consumer protection rules across EU countries	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
National administrative authorities lack legal powers to enforce consumer rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
National authorities responsible for enforcing consumer rights are not active enough	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Court proceedings are complex / long / costly	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Administrative enforcement proceedings are complex / long / costly	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Injunctions proceedings are complex / long	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Injunctions proceedings are costly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
There are significant differences between national rules on injunctions proceedings across EU countries	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Please explain your reply, including any other problem that wish to highlight (optional)

*1500 character(s) maximum*

The issue lies with the harmonisation of rules across Europe and the proper enforcement of these rules rather than a lack of them.

Minimum harmonisation contributed to a fragmented implementation of EU law via “gold plating” of provisions by Member States, that is why the consumer acquis remains complex. As a result, the corresponding national legislations can go further than the relevant directive.

We recognise that harmonisation of EU law for digital contents and cross-border online sales of tangible goods can provide further confidence and consistency across the Digital Single Market. However, we are still unclear as to why there is a need to introduce new rules and why there is not more focus on promoting existing rules first in the spirit of the better regulation agenda. A combination of harmonisation to boost trust and the “home option” for businesses to engage in cross-border trade with legal certainty is a pragmatic and sustainable approach.

How effective for protecting the rights of consumer are **self- and co-regulation initiatives by businesses at national or EU level**, under which businesses establish standards as to how they deal with consumers (eg. industry trust marks)?

- very effective
- rather effective
- rather not effective
- not at all effective
- no opinion / don't know

Please provide information on any successful self- and co-regulation initiative and describe what makes it successful (optional)

*1500 character(s) maximum*

What is your opinion regarding the following statements?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
Businesses can <b>trade across the EU</b> easily thanks to the harmonised EU consumer and marketing rules	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses are well <b>protected against misleading marketing practices</b> of other businesses	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses are well protected against <b>unfair comparative advertising</b> of other businesses	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In your view, what are the **benefits for businesses** from complying with EU consumer and marketing law?

- Consumers whose rights are respected come back
- Consumers whose rights are respected bring/attract other consumers (by word of mouth, online endorsements)
- On the contrary, consumers whose rights are not respected discourage other consumers (damage to reputation)
- Compliant and hence trusted businesses can sell at higher prices
- There are no benefits
- No opinion / don't know
- Other

Please specify

*100 character(s) maximum*

These businesses also should not be subject to administrative and legal proceedings.

What is your most **accurate estimate of the direct costs** of compliance with consumer and marketing rules for **the companies you represent**, e.g. costs of providing legal guarantee for goods, complying with consumer information requirements? (% of annual turnover)

%

How **positive / negative is the impact** of EU consumer and marketing law on the following aspects?

	<b>Very positive impact</b>	<b>Rather positive impact</b>	<b>Neutral</b>	<b>Rather negative impact</b>	<b>Very negative impact</b>	<b>No opinion/ don't know</b>
Amount & relevance of <b>information available to consumers</b> to compare and make informed purchasing choices	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>A level playing field</b> amongst EU-based businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Protection of consumers against <b>unfair commercial practices</b>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protection of businesses against <b>misleading marketing and unfair comparative advertising</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Availability and choice of products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Lower <b>prices</b> of products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Higher <b>quality</b> and <b>longer durability</b> of products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

More customers and revenues for EU-based businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Increase of national e-commerce (i.e. within the trader's EU country)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Increase of e-commerce across EU Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Competitiveness of EU businesses vis-à-vis non-EU businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

When the European Commission assesses the format of the information provided to consumer by businesses, it must have in mind that the information to be given to consumers is mandated by law. To ensure compliance with relevant rules, members of DIGITALEUROPE are therefore required to provide very detailed information in their contracts, terms and conditions and other relevant communications with consumers. Therefore it is wrong to assume that using icons would simplify the presentation of terms and conditions or pre-contractual information to consumers. Such a “simplified model” would not replace the format of information mandated by the legislation. Icons should only be used on a voluntary basis.

Fragmentation of consumer rules is detrimental to the promotion of cross-border sales.

How **effective** are the following **consumer redress/enforcement mechanisms** in protecting consumer rights in case of breach of EU consumer and marketing rules?

	<b>Very effective</b>	<b>Rather effective</b>	<b>Neutral</b>	<b>Rather not effective</b>	<b>Not effective at all</b>	New Text
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<p>An individual consumer gets redress through <b>direct negotiations with the trader</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>An individual consumer gets redress through an <b>alternative dispute resolution mechanism</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>An individual consumer gets redress through a <b>court action</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>An individual consumer gets redress through an <b>administrative enforcement decision</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p>An <b>administrative authority issues an injunction</b> which stops an infringement of consumer rights</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>A <b>court issues an injunction</b> which stops an infringement of consumer rights</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Other (please specify in the box below)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

Because of confusing rules or abuses of certain traders, consumers may sometimes request redress directly with the manufacturers of the defective product - instead of addressing the trader who contracted with the consumer. This creates costs for manufacturers to deal with these requests and a very ineffective solution of the consumer to have his request addressed.

How effective are the **injunction actions** sought against the following illegal practices?

	<p><b>Very effective</b></p>	<p><b>Rather effective</b></p>	<p><b>Neutral</b></p>	<p><b>Rather not effective</b></p>	<p><b>Not effective at all</b></p>	<p><b>No opinion / don't know</b></p>
<p>Use by traders of <b>unfair standard contract terms</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Use by traders of <b>misleading or aggressive commercial practices</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Breach of the traders' obligations related to the <b>legal guarantee</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Breach of the traders' obligations related to the <b>information</b> they are legally required to provide to consumers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Breach of the traders' obligation related to the consumers' <b>right of withdrawal (cancellation)</b> for distance and off-premises contracts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other illegal practices (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with the following statements about the **interplay between the Injunctions Directive and the provisions on enforcement of consumer rights** included in other Directives covered by this questionnaire?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
There is a need for <b>clarification of the interplay</b> between the Injunctions Directive and other provisions on enforcement of consumer rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
There is a need for <b>ensuring coherence</b> between the Injunctions Directive and other provisions on enforcement of consumer rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **consumer financial services**?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
<p>EU consumer and marketing rules provide <b>adequate complementary protection</b> regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Consumers are aware</b> about the complementary application of EU consumer and marketing rules in the specific sector</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Traders in the relevant sector are aware</b> of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p><b>The competent public enforcement authorities in the relevant sector are aware</b> of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>The co-operation between the various public enforcement authorities</b> in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **passenger transport**?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
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<p>EU consumer and marketing rules provide <b>adequate complementary protection</b> regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Consumers are aware</b> about the complementary application of EU consumer and marketing rules in the specific sector</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Traders in the relevant sector are aware</b> of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>The competent public enforcement authorities in the relevant sector are aware</b> of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p><b>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
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Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **energy supply (electricity and gas)**?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
<p>EU consumer and marketing rules provide <b>adequate complementary protection</b> regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>



<p><b>Consumers are aware</b> about the complementary application of EU consumer and marketing rules in the specific sector</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Traders in the relevant sector are aware</b> of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>The competent public enforcement authorities in the relevant sector are aware</b> of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **electronic communications services**?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
EU consumer and marketing rules provide <b>adequate complementary protection</b> regarding issues, which are not expressly regulated by the sector-specific EU rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>Consumers are aware</b> about the complementary application of EU consumer and marketing rules in the specific sector	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>Traders in the relevant sector are aware</b> of the complementary application of these EU rules and comply with them	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p><b>The competent public enforcement authorities in the relevant sector are aware</b> of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>The co-operation between the various public enforcement authorities</b> in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **environmental protection - rules on Ecodesign, energy labelling, car labelling, emission limits for vehicles etc.?**

	<p><b>Strongly agree</b></p>	<p><b>Tend to agree</b></p>	<p><b>Tend to disagree</b></p>	<p><b>Strongly disagree</b></p>	<p><b>No opinion / don't know</b></p>
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<p>EU consumer and marketing rules provide <b>adequate complementary protection</b> regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Consumers are aware</b> about the complementary application of EU consumer and marketing rules in the specific sector</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>Traders in the relevant sector are aware</b> of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>The competent public enforcement authorities in the relevant sector are aware</b> of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p><b>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
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Please explain your reply (optional)

*1500 character(s) maximum*

How strongly do you agree or disagree with each of the following statements about the **potential areas to improve EU consumer and marketing rules** for the benefit of consumers?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
<p>The <b>marketing/pre-contractual information requirements</b> currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>The information given to consumers at the <b>advertising stage</b> should focus on the essentials whilst more detailed information should be required only at the moment before the contract is concluded</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p><b>Online platform providers</b> should inform consumers about the criteria used for <b>ranking the information</b> presented to consumers</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The presentation of pre-contractual information to consumers should be <b>simplified by applying a uniform model</b>, e.g. using icons</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The obligation to display also the <b>price per unit</b> (eg, 1 Kg, 1 l) of the goods should apply to all businesses irrespective of their size</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Consumer protection against unfair commercial practices should be strengthened by introducing a right to <b>individual remedies</b>, e.g. compensation and/or invalidity of the contract when the consumer has been misled into signing a disadvantageous contract</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

<p>Consumer protection against unfair contract terms should be strengthened by introducing a <b>"black list" of terms</b> that are always prohibited</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The presentation of key standard Terms and Conditions to consumers should be improved by applying a <b>uniform model</b>, e.g. using icons</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Consumer protection against unfair contract terms should be strengthened by <b>incorporating key Court of Justice case law</b> on the ex officio duties of judges to assess the presence of unfair terms</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The <b>legal guarantee period for goods</b> should depend on their characteristics</p> <p>(If you agree with this statement please indicate the relevant characteristics in the box below, e.g. the category of the good (such as small/large household appliances, ICT products, cars etc.), price, expected/advertised lifespan)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

<p>The period during which the defect is presumed to have existed already at the time of delivery of the good (<b>reversal of the burden of proof</b>) should be extended. It is 6 months under current EU law but longer in a few EU countries</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>The notion of "<b>vulnerable consumers</b>" should be reviewed/ updated. Under current EU law vulnerable consumers are those that are particularly vulnerable to unfair commercial practices because of their mental or physical infirmity, age or credulity</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>There should be additional requirements for the protection of "vulnerable consumers" as regards <b>standard contract terms</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The notion of "<b>average consumer</b>" should be reviewed/ updated. According to the case law of the EU Court of Justice, the average consumer is defined as reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>



<p>Further criteria should be defined to allow for a <b>clearer distinction</b> between consumers and traders in the <b>collaborative economy</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p><b>EU injunctions proceedings</b> should be made more effective, e.g. by allowing their use for more types of infringements and by reducing their costs and length</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>EU consumer and marketing rules should be <b>further harmonised</b> to make it easier for traders to offer their products/services cross-border and for consumers to rely on the same level of protection across the EU</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>EU consumer and marketing rules should be simplified by bringing them into a <b>single horizontal EU instrument</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Consumer protection should be strengthened by making sure that non-compliant businesses face truly <b>dissuasive sanctions</b> amounting to a significant % of their yearly turnover</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Other (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Please explain your reply, including suggestion(s) for other area(s) where the current EU consumer and marketing rules should be improved (optional)

*2500 character(s) maximum*

DIGITALEUROPE has always emphasized that consumer protection lies in the implementation and enforcement of existing legislation and that new rules should only be drawn where necessary.

The consumer sales and guarantee directive offers a sufficient level of consumer protection against defective products. The minimum two years legal guarantee period should not be revisited. More specifically forcing longer legal guarantees through legislation or other schemes may stifle both competition and consumer choice, whilst increasing the prices paid by all consumers.

There is no consistent and uniform definition of consumer in EU law and there are also divergences amongst Member States (namely because of the mismatch in transposing the directives). In the current EU consumer acquis each EU instrument defines the notion of consumer separately for its own purposes. This contributes to fragmentation and creates uncertainties for businesses. The notion of “average consumer” has been clarified by the CJEU. However, there are some concerns if Member States do not stick to that definition thus creating even more fragmentation. If the Commission were to consider further clarification of that notion, it is important to ensure proportionality, clarity, consistency and single-market added value, keeping in mind the costs linked to new regulatory requirements.

To what extent do you agree or disagree with each of the following statements about **potential areas to improve the protection of businesses**, especially SMEs and in particular micro enterprises?

	<b>Strongly agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Strongly disagree</b>	<b>No opinion / don't know</b>
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<p>Businesses protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Business protection against unfair commercial practices should be extended to practices happening not just at the marketing stage but also <b>after the signature of the contract</b></p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Business protection against unfair commercial practices should be strengthened by introducing a <b>right to individual remedies</b>, e.g. compensation and/or invalidity of the contract when the business has been misled into signing a disadvantageous contract</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p>Business protection against unfair contract terms should be strengthened by <b>extending totally or partially the scope of application of the Unfair Contract Terms Directive</b> to B2B contracts</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Business protection against unfair commercial practices should be strengthened by introducing an <b>enforcement co-operation mechanism</b> for cross-border B2B infringements</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The scope of application of the <b>Injunctions Directive</b> should be <b>enlarged</b> to cover the protection of collective interests of businesses</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Other (please specify in the box below)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply and any other suggestion(s) for area(s) where the current EU rules for the protection of businesses should be improved (optional)

*2500 character(s) maximum*

As a principle, DIGITALEUROPE is against the extension of the provisions of the consumer protection directives to B2B relations.

You can also upload an additional policy paper here

## **Contact**

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