

Consumer affairs

UNFAIR COMMERCIAL PRACTICES

Directive [2005/29/EC](#) of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive').

Objective

To overcome the obstacles of different national regulations on commercial practices, advertising and other consumer protection regulations in order to achieve legitimate cross-border advertising and marketing in the Internal Market and the same high level of consumer protection throughout the EU.

To develop the fairness of commercial practices in the EU through the protection of the freedom of decision-making, market transparency and consumer information.

Relevance for the hospitality industry

Independent economic studies predict that the Directive on unfair commercial practices will increase consumer choice, stimulate competition and enlarge the horizons of small and medium sized businesses in Europe.

Businesses, particularly smaller ones such, as 90 % of the enterprises in the hotel, restaurant and café sector, are no longer compelled to comply with the accumulation of rules, court judgements and guidelines that existed in other Member States and will be able to take full advantage of the economic opportunities of the Internal Market.

State of progress

The Directive was adopted on 11 May 2005 and entered into force on 12 June 2005. Member States were given until 12 June 2007 to adopt the necessary transposition measures.

Content

The Directive establishes a three-level protection for consumers. The first-level is established in article 5 with a general clause prohibiting "unfair commercial practices".

Moreover, the Directive establishes a second level of protection with the prohibition of more specific commercial practices that are considered unfair:

- Misleading commercial practices (article 6 and 7);
- Aggressive commercial practices (article 8); and
- Use of harassment, coercion and undue influence (article 9).

In particular, the Directive states that traders shall communicate prices inclusive of taxes. Such omission is considered as misleading and is therefore prohibited by the Directive (article 7-4c).

Finally the Directive established a third level of prohibited practices with a black list of commercial practices which are always considered unfair (Annex 1).

In addition to this three-level structure, the Directive combine both an internal market clause (the 'country of origin' principle) and the principle of full harmonisation (diverging national measures falling in the scope of the Directive will not be allowed anymore).

For a summary of the unfair commercial practices Directive you can visit the [SCADPlus](#) website (European Commission).

HOTREC position

HOTREC welcomes the clarification provided by the unfair commercial practices Directive which set-up a clear framework at EU level on issues falling in the scope of the Directive.

Official references

Directive [2005/29/EC](#) of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive').

Communication from the Commission "Follow-up Communication to the Green paper on EU Consumer protection", [COM\(2002\)289](#) of 11.06.2002

Green Paper on European Union Consumer Protection, [COM\(2001\) 531](#) of 02.10.2001

See also:

Press release ([IP/05/213](#)) of 24 February 2005

Press release ([IP/03/857](#)) of 18 June 2003