

Consumer affairs

CONSUMER RIGHTS

Commission proposal for a Directive on consumer rights ([COM\(2008\) 614 final](#))

Objective

The aim of this proposal is to review and improve the coherence of the “consumer acquis”. It intends to set a general framework for all business-to-consumer contracts and includes the revision of four existing directives: the unfair contract terms Directive, the distance selling Directive, the consumer sales and guarantees Directive and the doorstep selling Directive.

Relevance for the hospitality industry

Under the current distance selling Directive, distance contracts for the provision of accommodation were exempted from certain obligations (written confirmation of information, right of withdrawal, etc.). These exemptions are maintained in the current proposal for a Directive on consumer rights, but are questioned by some stakeholders. The proposal also contains lists of unfair contract terms which are forbidden and therefore cannot be used in contracts for the provision of accommodation.

State of progress

The European Commission issued a proposal for a Directive on consumer rights in October 2008. It incorporates 4 existing directives currently in force:

- Council Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises (in force since 20 June 1986);
- Directive 93/13/EEC on unfair terms in consumer contracts (in force since 11 May 1993);
- Directive 97/7/EC on the protection of consumers in respect of distance contracts (in force since 4 June 1997); and
- Directive 99/44/EC on certain aspects of the sale of consumer goods and associated guarantees (in force since 4 July 1999).

The Commission proposal is now discussed both in the European Parliament and the Council. For a detailed overview of the state of progress and related documents you can visit [PreLex](#) (European Commission) or [OEIL](#) (European Parliament).

Content

It is a proposal for a horizontal Directive which concerns all business-to-consumer contracts for sales of services and goods.

According to the Commission proposal, the trader shall provide the consumer with certain binding information during the pre-contractual phase (e.g. geographical address and identity of the trader, the price inclusive of all taxes, the existence of an obligation to pay a deposit, etc.). Accommodation contracts are also subject to such obligation of information.

The Commission proposal also provides for a right to a written confirmation of information and a right of withdrawal (with an exemption when the contract is due to be performed before the end of the cooling-off period). However, it provides an exemption to those rights for accommodation contracts.

The Commission proposal also draws-up two non-exhaustive lists of contract terms that are always considered unfair (black list) or that are considered unfair unless the trader can prove otherwise (grey list). It also suggests a general ban on default pre-ticked opt-in boxes which apply to payments.

For a more detailed summary of the proposal for a consumer rights Directive you can visit the [SCADPlus](#) website (European Commission).

HOTREC position

Given the highly perishable nature of accommodation services (e.g. a hotel room), distance contracts for the provision of accommodation should be exempted from a formal right of withdrawal. Moreover, the right to a written confirmation of information is difficult to implement when reservations are made over the telephone.

See HOTREC reply to the Commission consultation on the revision of the distance selling Directive (L-1106-119-MS)

Official references

Commission proposal for a Directive on consumer rights ([COM\(2008\) 614 final](#))

Directive [99/44/EC](#) of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, O.J. L 171 of 07.07.1999

Directive [97/7/EC](#) of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, O.J. L 144 of 4.6.1997

Council Directive [93/13/EEC](#) of 5 April 1993 on unfair terms in consumer contracts, O.J. L 95 of 21.04.1993

Council Directive [85/577/EEC](#) of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises, O.J. L 372 of 31.12.1985

See also:

European Parliament study on "Online Hotel Reservation Systems", requested by the IMCO Committee of the EP, February 2009, [IP/A/IMCO/FWC/2006-058/LOT4/C1/SC8](#)

Commission Green Paper on the review of the Consumer Acquis ([COM\(2006\)744 final](#))