



## EU bibliographies: Consumer rights directive.

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Author: Julia Keddie

Section International Affairs and Defence Section

This Note brings together documents relevant to the proposed “Consumer Rights Directive” and its scrutiny in the UK and EU. It is not an attempt to define policy in this area. For information on policy developments contact Lorraine Conway on extn 5937. See also SN/HA/5097 [Proposed Consumer Rights Directive](#)

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## 1 Background to the proposal

On 8 October 2008, the European Commission adopted a proposal for a new Consumer Rights Directive. This proposal is part of the European Commission's [Review of the Consumer Acquis](#) launched in 2004 and published in 2007 (EC Cons Doc 6307/2007, COM(2006)744). The proposed Directive would repeal four existing Directives and replace them with one new Consumer Rights Directive. The four Directives are:

- Directive [85/577/EEC](#) on contracts negotiated away from business premises,
- Directive [93/13/EEC](#) on unfair terms in consumer contracts,
- Directive [97/7/EC](#) on distance contracts, and
- Directive [1999/44/EC](#) on consumer sales and guarantees.

All four Directives currently set minimum rights and standards for the protection of consumers.

### 1.1 Selected European Court of Justice cases

*Travel Vac SL v Manuel José Antelm Sanchis*. Directive 85/577/EEC - Scope - Time-share contracts - Right of renunciation. Case C-423/97. [Judgement given 22 April 1999](#)

*Pannon GSM Zrt. v Erzsébet Sustikné Gyórfi*. Directive 93/13/EEC - Unfair terms in consumer contracts - Legal effects of an unfair term - Power of and obligation on the national court to examine of its own motion the unfairness of a term conferring jurisdiction - Criteria for assessment. Case C-243/08. [Judgement given 4 June 2009](#).

*easyCar (UK) Ltd v Office of Fair Trading*. - Protection of consumers in respect of distance contracts - Directive 97/7/EC - Contracts for the provision of transport services - Meaning - Contracts for car hire. Case C-336/03. [Judgement given 10 March 2005](#).

*Quelle AG v Bundesverband der Verbraucherzentralen und Verbraucherverbände*. - Consumer protection - Directive 1999/44/EC - Sale of consumer goods and associated guarantees - Right of the seller, where goods not in conformity are replaced, to require the consumer to pay compensation for the use of those goods - No charge for the use of the goods not in conformity. Case C-404/06. [Judgement given 17 April 2008](#).

## 2 Proposal for a Directive on consumer rights.

The [proposal for a Directive of the European Parliament and of the Council on Consumer Rights](#) EC draft 14183/2008, COM(2008)614, was issued on 13 October 2008.

The purpose of the draft Directive, as stated in its explanatory memorandum, is as follows:

The objective of the proposal is to contribute to the better functioning of the business to-consumer internal market by enhancing consumer confidence in the internal market and reducing business reluctance to trade cross-border. This overall objective should be attained by decreasing the fragmentation, tightening up the regulatory framework and providing consumers with a high common level of consumer protection and adequate information about their rights and how to exercise them. To this end, the European Commission will put in place a process in order to look for the most appropriate way to inform consumers on their basic rights at the point of sale.

## 2.1 Treaty base

Article 95 of the Treaty Establishing the European Community (TEC), “Approximation of laws”; adoption by qualified majority voting in Council, but unanimity for fiscal provisions, provisions relating to the free movement of persons and those relating to the rights and interests of self-employed persons.

## 2.2 Related documents

Commission Staff Working Document accompanying the Proposal for a Directive of the European Parliament and of the Council on Consumer Rights - [impact assessment report](#). SEC(2008)2544

Commission Staff Working Document accompanying the Proposal for a Directive of the European Parliament and of the Council on Consumer Rights - [Summary of the Impact Assessment](#). SEC(2008)2545

Commission Staff Working Document accompanying the Proposal for a Directive of the European Parliament and of the Council on Consumer Rights - [Annexes](#). SEC(2008)2547

[Explanatory memorandum](#) from the Department for Business Enterprise and Regulatory Reform (BERR), now the Department for Business, Innovation and Skills (BIS), dated 28 October 2008.

The BERR published a [consultation](#) on the proposed Directive on 10 November 2008 with an [impact assessment](#). The consultation closed on Monday 2 February 2009. The Government published its [response](#) to the consultation in July 2009.

A White Paper: A [Better Deal for Consumers: Delivering Real Help Now and Change for the Future](#) Cm 7669 was published on 2 July 2009 by BERR. Chapter 4, “Modernising consumer law”, covers the implementation of the proposed Directive in the UK. See also [HC Deb 2 July 2009 c23-24WS](#).

The Department for Business, Innovation and Skills (BIS) issued a [Consultation on the implementation of the Consumer Rights Directive 2011/83/EU](#) on 20 August 2012 with a closing date for responses of 1 November 2012.

## 3 EU Scrutiny

The draft Directive is subject to the co-decision procedure. This procedure is outlined in Standard Note SN/IA/2120 [The European Parliament: its role and powers](#). The procedure is also explained, with a graphic, on the [Europa website](#).

The European Parliament’s Committee on the Internal Market and Consumer Protection published its report [A7/38/2011](#) on 22 February 2011; the Rapporteur was Andreas Schwab.

The Committee of the Regions published an [Opinion](#) on 22 April 2009.

The Economic and Social Committee published an [Opinion](#) on 16 July 2009.

The European Parliament considered the Committee’s report in Plenary Session on 24 March 2011 when it made [amendments](#).

The European parliament passed a [legislative resolution](#) in Plenary Session on 23 June 2011 by 615 votes to 16 with 21 abstentions.

The Council of Ministers published two discussion papers on the draft Directive on 13 May 2009 (Council doc [9833/2009](#)) and on 29 May 2009 (Council Doc [10516/2009](#) ) The Council also published a progress report on 25 May 2009 (Council doc [10163/2009](#) ).

Further discussion took place in the Competitiveness Council on 3- 4 December 2009 as summarised in the draft minutes (Council Doc [17038/2009](#)).

The Council subsequently considered the proposal at its meetings of [25 May 2010](#) and [24 January 2011](#) before adopting the Directive on [10 October 2011](#).

The adopted Directive 2011/83/EU of the European Parliament and of the Council on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council was published in [Official Journal L 304](#) of 22 November 2011.

The Commission issued a press release summarising the legislation on [10 October 2011](#).

## **4 UK Parliament Scrutiny**

### **4.1 General**

For a description of the scrutiny process for EU documents within Parliament, see House of Commons Information Sheet L11 [EU Legislation and Scrutiny Procedures](#). For general background to the EU scrutiny see Research Paper 05/85 [The UK Parliament and European Business](#).

### **4.2 House of Commons**

#### ***European Scrutiny Committee***

5 November 2008, published in 38<sup>th</sup> Report [HC 16-xxxiv 2007-08](#).

12 January 2011, published in 13<sup>th</sup> Report [HC 428-xii 2010-12](#)

22 June 2011, published in 34<sup>th</sup> Report [HC 428-xxx 2010-12](#)

Ministerial Correspondence from BIS dated [30 July 2009](#), [11 March 2010](#), [26 July 2010](#), [4 October 2010](#), [30 November 2010](#), [9 December 2010](#), [1 March 2011](#), [12 May 2011](#), [9 June 2011](#), [5 July 2011](#)

### **4.3 House of Lords**

#### ***Lords European Union Committee Sub-Committee G (Social policy and consumer affairs)***

Report published on 15<sup>th</sup> July 2009 *EU Consumer Rights Directive: getting it right*. 18<sup>th</sup> Report [HL Paper 126 2008-09](#)

See also the Committee's press release 15 July 2009 [Lords fear consumers may suffer under new EU proposals](#).

The Report was debated in the Lords on [23 October 2009](#), (HL Debates Vol 713 c923-950 ).

## **5 Comment**

### **5.1 *EurActiv* and *EU Observer***

*EurActiv* is an independent organisation which runs a website specialising in EU news and analysis. *EurActiv* has published the following news briefing on the draft consumer rights directive:

[Business hails new EU consumer rights plan](#) 10 October 2008

[The battle for EU consumer rights](#) 21 April 2011

[Brussels secures consumer rights breakthrough](#) 9 June 2011

[SMEs balk at new Consumer Rights Directive](#) 27 June 2011

*EU observer* is an independent news service founded in 2000 “to support the debate on - and development of European affairs”. *EU Observer* has published the following briefing:

[Brussels keen to boost cross-border online shopping](#) 7 October 2008

### **5.2 Press articles**

“Brussels to harmonise rights for consumers”. By Nikki Tait. *Financial Times* 6 October 2008.

‘One box you don't need on holiday’, *Observer*, 25 January 2009.

“ ‘Consumer rights Directive’ for EU”. By Nikki Tait. *Financial Times* 25 February 2010.