

Due to the character limitations we were unable to provide as full a response as we would have liked to certain questions. EDiMA has therefore opted to submit this PDF version with our full responses to both the business questionnaire and the full questionnaire.

About the respondent

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

Please specify

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

EDiMA

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.

53905947933-43

If you are **not registered** please register your entity [here](#). If you do not register your entity, your replies will be **published separately** from the replies of the registered entities.

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

info@edima-eu.org

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
-

Please specify

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
-

1B. Business questionnaire

1.b.1 Are you replying on behalf of:

- a group of companies
 - an individual company
-

1.b.2. What is the core/main **activity** of your company / group of companies? (multiple replies possible)

- Sale of goods
 - Provision of services
 - Provision of digital content
 - Online platform
 - Manufacturer
 - Other
-

Please specify

1.b.3 Your company / group of companies carries out its activities:

- only on-line (over the internet)
- only off-line
- both online and offline
- no opinion / don't know

1.b.4 Your company / group of companies carries out its activities:

- only domestically
- only cross-border
- both domestically and cross-border
- no opinion / don't know

1.b.5 What is your most accurate estimate of the **share of your company's / group of companies' cross-border sales?** (% of annual turnover)

%

1.b.6. How big is your company?

- self-employed
- 1-9 employees
- 10-49 employees
- 50-249 employees
- 250+ employees
- no opinion / don't know

1.b.7 What is your opinion regarding the following statements?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know

Businesses can trade across the EU easily thanks to the harmonised EU consumer and marketing rules		x			
Businesses are well protected against misleading marketing practices of other businesses		x			
Businesses are well protected against unfair comparative advertising of other businesses		x			

1.b.8 In the **past 12 months**, have you been confronted with **misleading B2B marketing**?

- no
- yes, once
- yes, a few times
- yes, often
- no opinion / don't know

1.b.9 Did you manage to **solve your last problem** regarding the misleading B2B marketing in a satisfactory way?

- yes, fully
- yes, to a large extent
- yes, to some extent
- not at all
- no opinion / don't know

1.b.10 If you **did not fully succeed to solve** your problem, what was the reason?

- The trader concerned refused to comply with the legal obligations on B2B marketing
- The trader concerned refused to comply with the legal obligations on B2B comparative advertising
- Once I signed the contract as a result of a misleading marketing practice, I could not get it annulled
- There are significant differences between the applicable rules across EU countries
- There is no administrative authority competent in these matters

- Court proceedings are too complex/ long/ costly
 - no opinion / don't know
 - Other
-

Please specify

1.b.11 In your view, how well do the **competent national authorities** implement consumer and marketing rules to **protect EU businesses against misleading marketing**?

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

1.b.12 In your view, how well do the **national courts** implement consumer and marketing rules to **protect EU businesses against misleading marketing**?

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

1.b.13 In your view, how well do **businesses respect** EU consumer rights?

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

1.b.14 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 Characters)

1.b.15 What is your most **accurate estimate of the direct costs** of compliance with consumer and marketing rules for your company / group of companies, e.g. costs of providing legal guarantee for goods, complying with consumer information requirements? (% of annual turnover)

%

1.b.16 In your view, how well do the **competent national authorities** implement consumer and marketing rules to protect EU consumers?

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

1.b.17 In your view, how well do the **national courts** implement consumer and marketing rules to protect EU consumers?

- very well
- rather well
- rather not well



not well at all



no opinion / don't know

1.b.18 Please provide any other comments you may wish to make, including your views as to what, if anything, needs to be improved in the EU consumer and marketing rules. Where available please provide evidence substantiating your views. (2500 characters)

For both consumers and business alike, the fragmented nature of the European market for (digital) goods, content and services is still a stumbling block. Although the principles of consumer law are sound, significant differences in Member State implementation remain. Either strict Internal Market guidelines or full harmonisation would be the best means to achieving a real European DSM and ensuring a high level of consumer protection, before any new laws are considered. This may require flexibility in driving for adequate implementation of obligations and enhanced dialogue between the EC and enforcement bodies. The EC should defend its needs, for example by establishing the concept of the lead regulator, and seek ways to ensure cross border market access without undermining consumer protections. The EU institutions should require all consumer legislation at the Member State level to be notified to the EC for its compatibility with the DSM. The EC's latest Consumer Conditions Scoreboard highlights that the current legal framework has empowered consumers with effective tools to take actions when things go wrong: 76% of consumers take action when things go wrong; only 5.5% of consumers fail to do so for lack of knowledge of procedure.

While we believe that the large majority of consumers are aware of their rights and obligations, the promotion of existing consumer rights to enhance awareness could be further explored. This would also be in line with the EC's own Better Regulation agenda.

Many business are already dedicating major resources to empower users online and to raise awareness of their consumer rights. In fact, the recent European Commission Consumer Conditions Scoreboard 2015 confirms that 71% of consumers think businesses respect consumer rights, the highest level since these surveys began in 2006."

There is no need to extend consumer law to non-consumer transactions. It is not reasonable to expect businesses to determine whether a business customer is a small or micro business, and whether that business customer should be expected to take its own legal advice and make its own decisions about deals. The default rule for B2B relationships should be freedom of contract and standard rules about the conclusion of contracts and contractual remedies should apply.

The core characteristics of European consumer law are in EDiMA's view fit for purpose. As to the EC's own findings, we support an approach focusing on consistent enforcement of existing rules. We believe that self- and co-regulation initiatives, in addition to the sharing of best practices can be very effective tools. They can play an important role in complementing other regulatory instruments, especially in fast-moving markets.

Thank you for answering these questions. We would also like to invite you to continue by answering additional, more detailed questions. Answering them requires some further knowledge of EU consumer and marketing law and will take a bit more time. Would you like to continue:

- yes
- no

Full questionnaire

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

	Very beneficial for consumers	Rather beneficial for consumers	Rather not beneficial for consumers	Not beneficial at all for consumers	No opinion / don't know
Right to be protected against misleading or aggressive commercial practices	X				
Right to get adequate information about the goods and services offered, i.e. the main characteristics, the total price, the delivery time, etc.	X				
Right to get information also about the unit price of goods (i.e. for one kilogramme, one litre etc.)		X			
Right to cancel a contract concluded at a distance within 14 days from the delivery goods or conclusion of a service contract (the 'right of withdrawal')	X				
Right to get information about the functionality	X				

and interoperability of digital content					
Right to cancel the contract concluded at a distance for the downloading (or streaming) of digital content before its performance begins (the 'right of withdrawal')		x			
Right to be protected against unfair clauses in the "small print" (the 'right to fair standard contract terms ')	X				
Right to have a defective good repaired or replaced 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)	X				
Right of consumer organisations and public bodies to take legal actions which can stop infringements of consumers' rights (the right to seek injunctions)		X			
Other (please specify in the box below)					

Please explain your reply, including any other consumer right that wish to highlight (optional) (1500 characters)

Europe has a strong level of consumer protection embedded in existing EU laws. These horizontal laws provide for principle-based protection across all sectors, namely the Unfair Commercial Practices Directive, the Consumer Rights Directive, the Unfair Terms Directive and the Misleading and Comparative Advertising Directive. These laws aim to provide consumers with protections based on the fundamental principles of information, transparency, fairness and redress, and have proven to be future-proof. With the fast pace of innovative technologies there should be an effort to clarify rules rather than change them, which could be done after a thorough impact assessment by the adoption of guidelines or recommendations. These guidelines would need to be developed in close cooperation with national enforcement authorities to ensure homogenous enforcement. The Commission should also spend more resources on monitoring the timely and correct implementation of EU rules by the Member States and take action if necessary, as opposed to creating any unnecessary new rules. New laws should always take into account this existing framework and be based on evidence along with the checks for proportionality and the effect on future innovation. EDiMA pointed out this concern in our [position paper](#) on the Digital Contract proposal, noting that the sequencing of the Commission's policy-making process for the proposal was questionable, as ideally it would have incorporated the analysis of this REFIT of the EU consumer acquis.

2. 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**?

	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion / don't know
Online provision of goods, services and digital content					x
Communications and internet access services					x
Financial services					x
Passenger transport					x
Tourism and package travel					x
Energy					x
Other (please specify in the box below)					

Please explain your reply (optional)

3. 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		x			
Traders don't know/ don't understand consumer protection rules		x			
Traders don't comply with consumer protection rules		x			
Consumer law is too complex	x				
There are significant differences between national consumer protection rules across EU countries	X				
National administrative authorities lack legal powers to enforce consumer rights					x
National authorities responsible for enforcing consumer rights are not active enough		x			x
Court proceedings are complex / long / costly		x			
Administrative enforcement proceedings are complex / long / costly		x			
Injunctions proceedings are complex / long		x			
Injunctions proceedings are costly		x			
There are significant differences between national rules on injunctions proceedings across EU countries	x				
Other (please specify in the box below)	x				

Please explain your reply, including any other problem that wish to highlight (optional) (1500 characters)

EDiMA welcomes the Commission's efforts to establish a harmonised and coherent legislative framework to protect consumers, and does not identify many problems with the current framework. The current laws are comprehensive, and consumers are always given the opportunity to learn about their rights. However, for both consumers and business alike, the fragmented nature of the European market for digital goods, content and services is still a major stumbling block. Although the principles of consumer law are sound, significant differences in Member State implementation remain. Either through strict Internal Market guidelines or full harmonisation would be the best means to achieving a real European Digital Single Market and ensuring a high level of consumer protection, before any new laws are considered. This may require flexibility in driving for adequate implementation of obligations and enhanced dialogue between the Commission and the respective enforcement bodies. The Commission should put efforts in defending its needs for example by establishing the concept of the lead regulator, and seek to find ways to ensuring cross border market access without undermining consumer protections. The EU institutions should require all consumer legislation at the Member State level to be notified to the Commission for its compatibility with the Digital Single Market.

4. 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 characters)

- Ecommerce Europe trustmark
- IAB Advertising Standards
- Youth protection in the media, e.g. PEGI: In 2003 ISFE founded the Pan European Game Information (PEGI) system which aims to provide parents with objective, intelligible and reliable information regarding the minimum age for which a given video game product is deemed suitable according to criteria developed and assessed by experts. PEGI is managed by PEGI SA, a co-regulatory organisation that operates on basis of a code of conduct, which reflects the industry's commitment to behave in a responsible manner towards children. The Code not only deals with content classification, but also regulates advertising & promotion, consumer redress, sanctions & online gaming features. Detailed advertising requirements help avoid misleading advertising and increase consumer information. All classifications are verified by an independent administrator who has the power to overrule or refer a complaint to a Complaints Board. The Complaints Board & Enforcement Committee with independent experts can hear consumer complaints and impose corrective sanctions or fines that can go up to 500 000€. The Code also requires operators

of online gaming environments to remove undesirable content upon notification, as well as ensure appropriate reporting mechanisms to flag such content or file complaints. PEGI is endorsed by European Institutions and Member States as a prime example of European Integration. Today, it has more than 1000 member companies and practically fully covering the whole sector.

5. What is your opinion regarding the following statements?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
Businesses can trade across the EU easily thanks to the harmonised EU consumer and marketing rules		x			
Businesses are well protected against misleading marketing practices of other businesses		x			
Businesses are well protected against unfair comparative advertising of other businesses		x			

6. 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 characters maximum)

With the possibility for consumers to post online reviews on products and services compliance with EU consumer rules could attract positive reviews and ratings from use- this would in turn be beneficial to traders as well.

7. 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)

%

8. What is your most accurate estimate of **the average cost (in EUR) of an enforcement action** to bring a trader or traders into compliance with the EU consumer and marketing rules for your authority?

EUR

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

	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know
Amount & relevance of information available to consumers to compare and make informed purchasing choices		x				
A level playing field amongst EU-based businesses				X		
Protection of consumers against unfair commercial practices		x				
Protection of businesses against misleading marketing and unfair comparative advertising	X					
Availability and choice of products	X					
Lower prices of products		X				
Higher quality and longer durability of products	X					

More customers and revenues for EU-based businesses	X					
Increase of national e-commerce (i.e. within the trader's EU country)	X					
Increase of e-commerce across EU Member States				X		
Competitiveness of EU businesses vis-à-vis non-EU businesses			X			

Please explain your reply (optional) (1500 characters)

Currently, existing legislation such as the CRD and UCPD include provisions regarding information requirements for consumers preventing companies from providing false/deceiving statements or omitting information that might impact a consumer's decision-making process, which contributes to consumer trust. Consumers trust e-commerce platforms for price transparency, and price comparison websites offer consumers access to price information on thousands of products from thousands of sellers. Further, the recent European Commission Consumer Conditions Scoreboard 2015 confirms that 71% of consumers think businesses respect consumer rights, the highest level since these surveys began in 2006.

As a result, consumers obtain better product and price information. This search-enabled price transparency inevitably increases price competition and reduces prices.

However, some fragmentation continues to exist across the EU Member States. For example, given that the UCPD is maximum harmonization Directive, there is clearly less scope for transposition variation between Member States. However, EDiMA members have experienced significant variation in the national and local interpretation(s) and application(s) of key concepts of the Directive, including definitions and concepts such as 'average consumer', 'transactional decision', 'misleading omission', 'misleading action', and 'professional diligence', to name a few. This creates significant and unhelpful legal uncertainty for consumers and businesses such as e-commerce platforms, and impacts on the increase of e-commerce across EU Member States, and the competitiveness of EU businesses vis-à-vis non-EU businesses.

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

	Very effective	Rather effective	Neutral	Rather not effective	Not effective at all	New Text
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An individual consumer gets redress through direct negotiations with the trader	X					
An individual consumer gets redress through an alternative dispute resolution mechanism		x				
An individual consumer gets redress through a court action	X					
An individual consumer gets redress through an administrative enforcement decision	X					
An administrative authority issues an injunction which stops an infringement of consumer rights	X					
A court issues an injunction which stops an infringement of consumer rights	x					
Other (please specify in the box below)						

Please explain your reply (optional) (1500 characters maximum)

EDiMA believes that the current framework of two Commission Recommendations setting out minimum guarantees is satisfactory. It has the necessary flexibility so that ADR or ODR systems can be set up by industry to provide for quick, simple, & effective resolution, can be adapted to specific disputes, & can be further developed based on experience. Policy efforts to encourage consumers and traders to use ADR must promote and endorse existing systems, including internal industry schemes. EDiMA would therefore caution against efforts that mandate adherence by traders/consumers to a particular ADR scheme or make ADR schemes a mandatory first step before court. Judicial process can also be a good option in some cases. The Uniform Domain-Name Dispute-Resolution Policy is a process established by the Internet Corporation for Assigned Names and Numbers for the resolution of disputes regarding the registration of internet domain names and has decided on 35,000+ cases involving disputes regarding domain names since its inception. Its success can be attributed to the highly-skilled professionals it employs. Overall, it has shown itself to shorten proceedings duration, ease enforcement and have a global reach. A number of platforms have well-functioning dispute resolution mechanisms in place today. In many cases customers can always get in touch with the trader in order to report a problem or request a refund. This usually takes the form of webforms or a link to a “report a problem” box.

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

	Very effective	Rather effective	Neutral	Rather not effective	Not effective at all	No opinion / don't know
Use by traders of unfair standard contract terms						x
Use by traders of misleading or aggressive commercial practices						x
Breach of the traders' obligations related to the legal guarantee						x
Breach of the traders' obligations related to the information they are legally required to provide to consumers						x
Breach of the traders' obligation related to the consumers' right of withdrawal (cancellation) for distance and off-premises contracts						x
Other illegal practices (please specify in the box below)						

Please explain your reply (optional)

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 clarification of the interplay between the Injunctions Directive and other provisions on enforcement of consumer rights					x
There is a need for ensuring coherence between the Injunctions					x

Directive and other provisions on enforcement of consumer rights					
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Please explain your reply (optional)

12. 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**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules					
Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector					
Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them					
The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate					
The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened					

Please explain your reply (optional)

13. 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**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules	X				
Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector			X		
Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them	X				
The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate	X				
The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened	X				

Please explain your reply (optional)

The combination of horizontal and vertical consumer protection rules has been effective in the passenger transport sector. However, the harmonised application and enforcement of existing rules at EU and Member State level needs to be improved.

14. 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)**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
EU consumer and marketing rules provide adequate complementary protection regarding issues, which are					

not expressly regulated by the sector-specific EU rules					
Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector					
Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them					
The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate					
The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened					

Please explain your reply (optional)

15. 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**?

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

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

Please explain your reply (optional) (1500 characters maximum)

Already a high level of cooperation through the EC's CPC

16. 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.**?

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

charge of consumer protection should be strengthened					
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Please explain your reply (optional)

17. 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?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
The marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined				x	
The information given to consumers at the advertising stage should focus on the essentials whilst more detailed information should be required only at the moment before the contract is concluded	x				
Online platform providers should inform consumers about the criteria used for ranking the information presented to consumers					x
The presentation of pre-contractual information to consumers should be simplified by applying a uniform model , e.g. using icons			x		
The obligation to display also the price per unit (eg, 1 Kg, 1 l) of the goods should apply to all businesses irrespective of their size					x
Consumer protection against unfair commercial practices should be strengthened by introducing a right to individual remedies , e.g. compensation and/or invalidity of the contract when the consumer has been misled into signing a disadvantageous contract				x	

Consumer protection against unfair contract terms should be strengthened by introducing a "black list" of terms that are always prohibited				X	
The presentation of key standard Terms and Conditions to consumers should be improved by applying a uniform model , e.g. using icons				X	
Consumer protection against unfair contract terms should be strengthened by incorporating key Court of Justice case law on the ex officio duties of judges to assess the presence of unfair terms				x	
The legal guarantee period for goods should depend on their characteristics (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)				x	
The period during which the defect is presumed to have existed already at the time of delivery of the good (reversal of the burden of proof) should be extended. It is 6 months under current EU law but longer in a few EU countries				x	
The notion of "vulnerable consumers" 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			x		
There should be additional requirements for the protection of "vulnerable consumers" as regards standard contract terms				x	
The notion of "average consumer" 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			x		

Further criteria should be defined to allow for a clearer distinction between consumers and traders in the collaborative economy			x		
EU injunctions proceedings should be made more effective, e.g. by allowing their use for more types of infringements and by reducing their costs and length			X		
EU consumer and marketing rules should be further harmonised 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			X		
EU consumer and marketing rules should be simplified by bringing them into a single horizontal EU instrument			x		
Consumer protection should be strengthened by making sure that non-compliant businesses face truly dissuasive sanctions amounting to a significant % of their yearly turnover					
Other (please specify in the box below)					

Please explain your reply, including suggestion(s) for other area(s) where the current EU consumer and marketing rules should be improved (optional) (2500 characters maximum)

Platforms are considered “traders” for their own commercial practices towards consumers and are subject to general information requirements about the service they provide to their users. Article 6 of the CRD requires the trader to provide information “about the existence and conditions of after sale assistance and services, including commercial guarantees, and about the possibility and way of having recourse to an out-of-court complaint/redress mechanism”. These are sufficient information obligations, and they already apply to search engines on how results are displayed, promoted content, price comparison websites, app stores, sharing economy websites. As the Commission’s Special Eurobarometer 447 on Online Platforms confirms, 92% of users “agree that, when searching online, they usually find what they are looking for”. Generally, users are aware of the broad parameters being used. We therefore believe that mandatory disclosure of the criteria used for ranking information is not providing any additional consumer benefit and will hamper innovation. This is also because oftentimes the criteria used for ranking of information is proprietary and hence any transparency requirements would have to be balanced with copyright law.

Although, in general, consumers’ rights to pre-contractual information work well, some information obligations, particularly in relation to selling digital content via subscription services give rise to confusion. For example, under the requirements of the Consumer Rights Directive consumers must agree during the purchase flow that they have no right to withdraw from a sale of digital content. However, for an ongoing or subscription contract, if the renewal is automatic, consumers must (also under the requirements of the Consumer Rights Directive) be informed that

they have a right to terminate the contract. In such circumstances, it is difficult for consumers to determine whether and when they have a right to cancel. Clarification in this area would be helpful.

To ensure sufficient flexibility & business model neutrality, information requirements should not be imposed in a rigid & prescriptive way, leaving it up to the platform operator to determine the best way of informing the consumer about the main characteristics of its service. This is especially true for the provision of pre-contractual information and Ts&Cs. For some products a single destination with the proposed icons may make sense. For others, it may actually undermine the purpose of delivering clear information to the user. Next, EDiMA agrees that less information needs to be shown in advertising than in the offer. Not every piece of information that the buyer needs to see before making a purchase decision must be shown in all advertising preceding this final step. However, Courts increasingly interpret the concept of “offer” to be equivalent to the concept of “invitation to purchase”, within the meaning of the UCPD and in particular with the wide interpretation given to it in CJEU’s ruling in the *Ving Sverige case*. There is a risk that courts will use Art 7(4) of the UCPD to justify more far-reaching information requirements than intended by the legislator. Therefore, whenever there is specific regulation on information requirements which states what information needs to be given at which point of time within the purchase process, this must be considered an exhaustive regulation, leaving no room for Art 7(4) as a back-up clause. And whenever the law differentiates “offer” and “advertising”, there cannot be room for interpreting “offer” as “invitation to purchase”. Finally on further harmonisation, as stated above, the Commission should spend more resources on monitoring the timely & correct implementation of EU rules by and take action if necessary, as opposed to creating any unnecessary new rules.

18. 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?

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

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

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 characters maximum)

EDiMA members have found that in practice the black list is often a 'grey list' marked, again, by different Member State interpretations. EDiMA believes that more needs to be done to provide business with guidance, both formal and informal, as to how generalised concepts apply in practice. While local enforcement may make sense for more specific pieces of consumer protection legislation where requirements are clearer, it leads to duplication, conflicting interpretation, and regulatory uncertainty when principles-based legislation, such as the UCPD, is being enforced.

In general, we believe professional traders including SMEs have an understanding of their environment they operate in which is usually higher than the average consumer. Imposing regulation on business-to-business (B2B) contracts can only increase the regulatory burden on businesses, preventing competition and hindering innovation.

19. You can also upload an additional policy paper here