

# Implementation of the Unfair Commercial Practices Directive 2005/29/EC

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**PURPOSE:** to provide a first assessment of the application of Directive 2005/29/EC on Unfair Commercial Practices (UCPD) in the Member States and evaluate its effects (Commission report).

**CONTENT:** the UCPD was adopted on 11 May 2005. It aims to contribute to the completion of the internal market by removing barriers that are due to differences in the national laws on unfair commercial practices and to provide a high level of consumer protection.

It seeks to ensure that consumers are not misled or exposed to aggressive marketing and that any claim made by traders in the EU is clear, accurate and substantiated, thus enabling consumers to make informed and meaningful choices. The Directive covers the totality of business-to-consumer ('B2C') transactions whether offline or online, involving both goods and services.

As announced in the [Communication on the application of the Unfair Commercial Practices Directive](#) accompanying this report, the Commission considers that it **does not seem appropriate to amend the Directive at this stage**. This outcome reflects the results of the consultation and the preliminary conclusions drawn from the experience on enforcement in Member States, which is significant but still too limited in time for such a comprehensive body of legislation.

The main points of the report are as follows:

**Benefits of the Directive:** the experience gained from the first few years of the application of the Directive demonstrates that the latter has helped to enhance consumer protection in Member States while protecting legitimate businesses from competitors who do not play by the rules:

- **national consumer** protection watchdogs have used the Directive to curb and penalise a wide variety of unfair business practices;
- the UCPD is the **only general instrument of EU legislation in place** to assess environmental claims or aggressive practices;
- the **'Black List'** has provided national authorities with an **effective tool** : (i) for tackling common unfair practices like bait advertising, fake free offers, hidden advertising and direct exhortations to children; (ii) for tackling unfair practices in the fields of financial services and immovable property;
- the legal framework provides a **prompt enforcement response** to abuses perpetrated by means of new commonly used tools such as price comparison and collective booking websites or in relation, for example, to the increasing involvement of advertising in social networks;
- actions taken under the **CPC-Network** (network on consumer protection) concerned infringements of the UCPD and several joint surveillance actions ('sweeps') have been carried out on the basis of UCPD provisions (websites selling airline tickets, online mobile phone services, websites selling consumer electronic goods) ;
- **cooperation with national enforcement authorities** and the implementation elements gathered in the UCPD Database reveal that the rules are mostly interpreted in a uniform manner.

**Improve enforcement of the Directive:** the report states that the concerns which have been raised by some stakeholders in relation to the application of the UCPD to certain specific unfair commercial practices can be addressed by **initiatives to improve enforcement** in the Member States.

In this connection, the Commission considers that **future efforts will need to concentrate on key thematic areas** where detriment and lost opportunities for consumers appear to be most frequently recurring and where the Single Market's growth potential is the biggest. These key areas are identified as **retail trade (including e-commerce), the transport sector, the digital economy and energy / sustainability**.

The report notes that more consumers are now interested in making cross-border purchases (52%, +19) and are willing to spend more money cross-border (18%, +5) than in 2006, when the Directive had not yet been transposed in Member States. Nevertheless, it has to be recognised that **growth in online cross border shopping lags far behind domestic growth**, making it clear that more needs to be done. This is why emphasis now needs to be placed on **correct and consistent application of the Directive**.

Accordingly, the Commission suggests that further efforts should be made in terms of strengthening UCPD enforcement, improving the deterrent value of **penalties** and increasing **cooperation in cross-border cases** within the scope of the CPC Regulation.

The Commission considers that it should take up a **more prominent role**, joining forces with Member States and supporting them in the application of the Directive across the EU, in particular with regard to unfair practices having a cross-border dimension such as those taking place in the online environment and which raise common questions for enforcers.