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

2013/2116(INI) - 04/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on the implementation of the Unfair Commercial Practices Directive 2005/29/EC.

Directive 2005/29/EC on unfair commercial practices is the European Unions main legislative tool regulating misleading advertising and other unfair practices in business-to-consumer transactions.

Effectiveness of the legislation: whilst laying stress on the effectiveness of the legislation established by the Directive, Parliament recalled that disparities in the application of the Directive risk impairing its effectiveness. It reasserted the importance and **absolute necessity** of the Directive being **fully and uniformly applied and properly implemented** by Member States in order to eliminate legal and operational uncertainties for businesses operating across borders.

Parliament regretted that despite provisions in Directive 2006/114/EC to combat misleading practices in business-to-business advertising, some of these practices, notably '**directory scams**, still persist.

It is the Commissions intention to propose shortly **amendments to Directive 2006/114/EC** focusing on business-to-business relations, in order to combat these practices more effectively. Members suggested that the Commission could, in this context, consider the merits of a **targeted black list of commercial practices** that are to be considered unfair in all circumstances in the field of business-to-business relations for Directive 2006/114/EC, similar to that which already exists for Directive 2005/29/EC.

They did not, however, consider it appropriate for the moment to extend the scope of Directive 2005/29 /EC on business-to-consumer relations to include business-to-business unfair commercial practices.

Parliament called on the Commission to:

- clarify the relationship between Directives 2005/29/EC and 2006/114/EC, in order to guarantee a high level of protection for all economic operators in the Union, particularly consumers and SMEs, from fraudulent and unfair practices, thus boosting confidence within the Single Market;
- carry out research into **how Member States have transposed the Directive** and to submit within 2 years to Parliament and to the Council a new comprehensive report on its application;
- continue monitoring closely application of the Directive and, if necessary, to **bring proceedings against Member States which infringe the Directive** or fail to implement it or to apply it correctly;

- reinforce cooperation and coordination between the Commission and national authorities in order to promote converging practices in implementation, and to provide a rapid and efficient response (particular attention should be paid to dealing with cross-border online purchasing);
- examine thoroughly the scope, effectiveness and operational mechanisms of the Consumer Protection Cooperation Regulation (CPC Regulation), as it has committed itself to doing before the end of 2014;
- further develop 'sweeps' and strengthen them and broaden their scope.

Further efforts should be made to strengthen the enforcement of the Unfair Commercial Practices Directive in relation to **vulnerable consumers.**

Hidden advertising: Parliament called on the Commission and the Member States to ensure proper application of the Unfair Commercial Practices Directive especially regarding **misleading 'hidden' internet advertising** in the form of comments posted on social networks, forums or blogs, apparently emanating from consumers themselves while they are in reality messages of a commercial or advertising nature directly or indirectly generated or financed by economic operators. It insisted on the damaging effect of such practices on consumer confidence and competition rules.

Moreover, a suitable method for monitoring the protection of vulnerable groups of people, **especially children**, and their accessing by advertisers, needs to be developed. Members also stressed the need to investigate the frequency of **misleading practices in the airline price sector**.

Penalties: Parliament considered that the penalties imposed for failure to comply with the Directive ought never to be lower in value than the profit made through a practice deemed to be unfair or misleading.

Database on national legislation: Parliament welcomed the database on national legislation and case law concerning unfair commercial practices developed by the Commission and recognises it to be a useful means of adding to the information available to consumers. It regretted that it is only available in English. The Commission is asked to increase progressively the number of languages in which the database is available and to enhance its visibility, particularly for economic operators.

Redress: many consumers hesitate to ask for redress when it seems to them that the amount concerned is not very high. Consumers need to be made more aware of the support available to them from both consumer associations and the network of European Consumer Centres. It also stressed the importance for consumers of having effective, swift and inexpensive legal remedies. In this regard, Parliament asked for Member States to implement fully the Directive on alternative dispute resolution methods and out-of-court settlement of online disputes.

Members stressed the importance of agreeing to a **horizontal framework on collective redress** which would avoid the risk of uncoordinated sector-specific EU initiatives.