Consumer protection: unfair business-to-consumer commercial practices. 'Unfair Commercial Practices Directive'

2003/0134(COD) - 20/04/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Fiorella GHILARDOTTI (PES, I) and made several amendments to the proposal: - Parliament sought to further define the scope of the Commission proposal on unfair business-to-consumer commercial practices. Whereas the Commission proposal stated that the directive would apply to unfair commercial practices before and after a commercial transaction in relation to any product, the Parliament amended the proposal to say that it shall apply "to consumers transactional decisions even where these decisions do not result in a contract between the consumer and a trader". - Turning to misleading commercial practices, Parliament voted in favour of including a number of new definitions of those, currently absent from the Commission proposal. Parliament's view of misleading commercial practices includes the use of artificially high reference prices as the basis to grant discounts thereby giving consumers the false impression of a price advantage; promoting a product similar to that made by a particular manufacturer in a way that implies the product was made by the same manufacturer; supplying goods or services to consumers who have not requested them, unless it is made clear that they are free; advertising products in such a way as to disguise the commercial intent of the communication. Similarly the House felt that "advertorials" (articles or features published in exchange for payment) should comply with the directive "if the marketers rather that the publishers control their content". Furthermore traders and publishers must make it clear that such features are in fact advertisements, for example by heading them "advertisement feature". - Parliament voted to amend the Commission proposal by defining the term "particular group of consumers" as a group of consumers who have distinct characteristics such as vulnerability due to age, disability, physical or mental conditions and similar, all of which may influence their assessment or their reaction capacities. - Finally Parliament adopted an amendment stating that the Commission must report regularly to the Parliament and the Council on the application of the directive in the Member States and should put forward, every five years, a proposal for a revised list of commercial practices which are in all circumstances considered unfair.