

Corporate M&A

The Consumer Rights Directive

The Consumer Rights Directive to Enter into Force Across all Member States by June 2014

Directive 2011/83/EU is colloquially known as the Consumer Rights Directive (the “Directive”) and will replace, as of 13 June 2014, the Unfair Terms in Consumer Contracts Directive, the Sale of Consumer Goods and Associated Guarantees Directive, the Distance Selling Directive and the Doorstep Selling Directive and will simplify them into one set of rules

The Directive was originally proposed as a full harmonisation Directive, however this would have resulted in the reduction of consumer protection in some Member States (including Ireland) and therefore the Directive will be implemented as a minimum harmonisation measure.

This Directive addresses legal uncertainty for business and consumers regarding cross-border trade whilst will afford consumers certain protections when on-line cross-border shopping.

The Directive will be applicable to all contracts for the sales of goods and services from business-to-consumer and in particular, distance and off-premises contracts such as purchases made over the internet, via a telephone call, by regular mail or on the doorstep. The Directive aims to increase consumer confidence and make it easier to shop cross-border, in particular on the internet. The Directive aims to decrease the costs for traders offering their goods and services to consumers in other countries within the EU by ensuring a level playing field and increasing legal certainty in relation to these types of transactions.

The Directive will address a number of matters including the following;

- Information: Traders will be obliged to provide consumers with a clear set of information to ensure they can make an informed decision before entering into a contract for the sale of goods and services. The information will include the main characteristics of the product or service, the geographical address and identity of the trader, the price including taxes, and all additional freight, delivery or postal charges;
- Delivery: Traders will be required to deliver goods without undue delay after the conclusion of a contract and no later than 30 days after the conclusion of the contract, unless the parties agree otherwise;
- Cooling Off: Consumers will have a cooling off period of 14 calendar days during which they can change their minds. Where consumers exercise this right they will be required to return the goods within 14 days of withdrawal.
- Pre Selection: Pre-ticked boxes which apply to payments are banned, for example in relation to travel insurance or priority boarding and consumers will have the right to be reimbursed for these extra payments where they did not actively agree to them;
- Extra Charges: Traders will not be permitted to charge a fee for a particular means of payment where such a charge exceeds the cost to the trader of the means of payment in question; and

- Pressure Selling: The Directive will also increase protection against pressure selling where sales are negotiated away from business premises.

The Directive must be implemented into national law by Member States by 13 December 2013 and must be applied in all Member States by 13 June 2014.

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