

Eurofinas response to the European Commission's Public consultation for the Fitness Check of EU consumer and marketing law

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

Eurofinas supports the European Commission's fitness check of European consumer protection and marketing law. We believe it is important that these rules are clear for both consumers and business operators and that they also are adapted to the digital environment. In particular, we see transparent and fair commercial practices as well as fair contract terms as key in building long-term confidence relationships between consumer credit providers and consumers. We acknowledge the importance of appropriate regulation in this field.

Although physical networks are and will always remain important for consumer credit providers, an increasing number of customers expect and wish to purchase retail financial products online. Digital innovation is transforming our industry. New technologies as well as a shifting customer demand bring business opportunities as much as challenges for the lending industry.

We believe the European Commission can play an important role in this field by supporting innovation and ensuring adequate consumer protection in the digital sphere. The existing standards provide a coherent framework but needs to be adjusted to technological developments, new distribution channels, new actors, and, importantly, customers' changing online behavior. We believe this would be consistent with the Commission's Digital Single Market Strategy.

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)?

Many Eurofinas members have in recent years developed and implemented codes of good practice. These codes set out guidance and general principles by which member lending institutions should operate and establish the standards of behaviour which are expected from them. These codes help to promote a consistent, balanced and safe business environment where both consumers and credit providers' interests are taken into account.

A number of Eurofinas members are also engaging with local supervisory authorities in order to facilitate a high degree of digital innovation, allowing for the introduction of new products and services, while complying with the applicable legislation. The Commission can play an important role in the sharing of best practices between Member States and across industries.

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

Eurofinas believes that consumers are well protected against infringements of their rights, guaranteed by EU consumer protection and marketing law as well as sector-specific legislation. In this context, we welcome the Commission's recent update of the Guidance document to the Unfair Commercial Practices Directive (UCPD). This work is key to ensure consistent implementation of the rules in a digital environment.

We think a similar work could be conducted for other key pieces of legislation, such as in the field of fair contract terms or sector-specific standards.

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

Eurofinas members are committed to the highest service standards and conduct of business. The industry has the necessary mechanisms in place in order to effectively deal with consumer complaints and to ensure that these are resolved fairly and effectively. Against this background, Eurofinas members believe it is important to ensure that consumers can address concerns / complaints through digital channels. Should disagreement persist, Alternative Dispute Resolution (ADR) / Online Dispute Resolution (ODR) mechanisms and court procedures are accessible.

We value the Commission's work to facilitate the ADR and ODR across borders.

11. 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?

Eurofinas take the view that all essential cost information should be provided before the entering into financial agreements. This is in line with existing regulatory requirements under the Consumer Credit Directive (CCD) and Mortgage Credit Directive (MCD).

Digitalisation provides for new challenges in relation to existing legislation. For example, the CCD's information requirements are designed for face-to-face transactions. As more consumers are opting for online transactions, it becomes apparent how ill-suited the current rules are when a consumer opts to use his or her smartphone or tablet. The number of swipes to be read through CCD pre-contractual and contractual credit information has been estimated at between 30 and 150. A Standardised European Consumer Credit Information (SECCI) sheet requires information to be provided in two columns. However, such a format is not readily compatible if the information is being viewed on an Android smartphone. In addition, the marketing and advising requirements in the CCD are not fit for purpose for digital transactions.

We believe that pre-contractual information should be proportionate to specific type of loan concerned (duration and amount). Consumers want simplicity and enough information to make informed decisions. In the online environment, it would be easier if they were presented with the key facts of a credit agreement rather than very long standardised pre-contractual information.

Online platforms may be an important tool for consumers to conveniently compare different offers / products. Factors affecting the criteria must be made clear and is already an obligation under the UCPD. This entails at least that information on the selection of offers displayed, the relevant ownerships and partnerships and the criteria for the comparison are to be displayed.

At this stage, we believe it is premature to modify the requirements as regards standard contract terms or the notion of the average consumer.

As stated, we believe that the regulatory framework provides for a transparent and safe environment for European Consumers. We welcome further actions of the Commission in clarifying the application of the framework also in the digital environment and remain committed to assist in this process where deemed appropriate by the Commission.

Contact persons

Alexandre Giraud
Senior Legal Adviser
+32 2 778 05 64
a.giraud@eurofinas.org

Isak Bengtzboe
Legal Adviser
+32 2 778 05 73
i.bengtzboe@eurofinas.org

Eurofinas is entered into the European Transparency Register of Interest Representatives with ID n° 83211441580-56