

Public consultation for the Fitness Check of EU consumer and marketing law

Fields marked with * are mandatory.

Introduction

In the context of the 'Fitness Check' of EU consumer and marketing law directives the Commission seeks views on whether these rules are still up to date and fit for purpose. The following six directives are subject to this Fitness Check:

- Unfair Contract Terms Directive [93/13/EEC](#);
- Consumer Sales and Guarantees Directive [1999/44/EC](#);
- Unfair Commercial Practices Directive [2005/29/EC](#);
- Price Indication Directive [98/6/EC](#);
- Misleading and Comparative Advertising Directive [2006/114/EC](#);
- Injunctions Directive [2009/22/EC](#).

In addition, this consultation covers also the Consumer Rights Directive [2011/83/EU](#), which is subject to a separate evaluation.

When the consultation questionnaire refers to **EU consumer and marketing law or rules**, this term covers the six EU directives that are subject to the Fitness Check as well as the Consumer Rights Directive.

Link to a [short description of the Directives](#).

The results of this public consultation will also feed into the currently ongoing legislative process on the [Commission Proposal for a Directive on certain aspects concerning contracts for the online and other distance sales of goods](#).

This consultation is open until **2 September 2016**.

You can reply in any EU official language.

The consultation consists of **short questionnaires** for (1) consumers (citizens) and (2) businesses. Other respondents (associations, authorities etc.) will be asked to fill in the **full version**. The full version is optional for consumers (citizens) and businesses.

When answering a question, you will be asked to tick one of the provided multiple choice replies. You can choose "do not know/no opinion" as a reply. You will also be able to add comments.

You can pause and save your work and continue later. You can download the questionnaire in PDF format before starting to help you with the preparations or discussions within your organisation. You will be able to download an electronic copy of your replies.

The European Commission will assess and summarise the responses. The summary will be published on the [webpage of the Fitness Check](#).

Link to the [Privacy statement](#).

The Commission service responsible for the consultation:
Directorate-General for Justice and Consumers
Unit E2 "Consumer & Marketing Law"
e-mail: JUST-NOTIFICATIONS-E2@ec.europa.eu

About the respondent

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1. Are you replying as / on behalf of:

- a citizen/consumer
- a national consumer association
- a European-level consumer association
- a company (or group of companies)
- a national business association
- a European-level business association
- a national consumer enforcement authority
- a national public enforcement authority in a specific area (energy, telecom etc.)
- a government authority in charge of consumer policy
- another public body /institution
- a professional consultancy/ law firm
- a think tank/ university/ research institute
- other

*

2. Please provide **your full name** or the **name of the entity** on whose behalf you are replying.

100 character(s) maximum

ETNO - European Telecommunications Network Operators' Association

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3. Is the **entity** on whose behalf you are replying registered in the EU [Transparency Register](#)?

- yes
- no

*

4. Please indicate the **registration number** in the Transparency Register.

30 character(s) maximum

08957111909-85

5. Please give your **e-mail address** in case we have questions about your reply and need to ask for clarifications.

capelo@etno.eu

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6. Please indicate the **country** where you live or, if you reply on behalf of an entity, the country where it has its headquarters/ place of establishment.

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

Please specify

30 character(s) maximum

Represents EU&non EU companies

*

7. Please indicate whether you agree to the **publication** of your response.

- Under the name indicated** – I agree to the publication of all information in my response
- Anonymously** – I agree to the publication of all information in my response, except the replies to Question 2 (name), Question 4 (registration number) and question 5 (e-mail address)
- No, I do not agree to the publication of my response** - I understand that my anonymised response may be included in any published statistical data, for example, to show general trends in the responses to the consultation

Full questionnaire

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

	Very beneficial for consumers	Rather beneficial for consumers	Rather not beneficial for consumers	Not beneficial at all for consumers	No opinion / don't know
Right to be protected against misleading or aggressive commercial practices	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Right to get adequate information about the goods and services offered, i.e. the main characteristics, the total price, the delivery time, etc.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Right to get information also about the unit price of goods (i.e. for one kilogramme, one litre etc.)</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right to cancel a contract concluded at a distance within 14 days from the delivery goods or conclusion of a service contract (the 'right of withdrawal')</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right to get information about the functionality and interoperability of digital content</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Right to cancel the contract concluded at a distance for the downloading (or streaming) of digital content before its performance begins (the 'right of withdrawal')</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right to be protected against unfair clauses in the "small print" (the 'right to fair standard contract terms')</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Right to have a defective good repaired or replaced for free or to obtain a price reduction or refund during the legal guarantee period (in most EU countries 2 years from delivery; longer in some EU countries)</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Right of consumer organisations and public bodies to take legal actions which can stop infringements of consumers' rights (the right to seek injunctions)</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
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Please explain your reply, including any other consumer right that wish to highlight (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Effective consumer protection is essential – but must also be proportionate and not place overly burdensome requirements on industry which could result in higher costs and less innovation. Considering this, horizontal laws provide, in general, efficient consumer protection standards. However, this efficiency is compromised by the fragmentation of rules, which, together with recent digital disruption, gives rise to the need for change. An updated horizontal framework should widely replace sector-specific regulation and apply to all digital services equally.

Telecoms are subject to horizontally applicable consumer protection rules such as the ones listed above and, in addition, sector-specific consumer protection rules. These sector specific rules are generally more onerous than the horizontal requirements. Currently, the sector specific requirements do not apply to communications services offered by over the top players, even where these are perceived as substitutes by consumers to those offered by telecoms operators. The impact for the consumer is that they cannot rely on consistent protection standards when using digital services. The impact for telecoms operators is that they cannot compete on a level playing field.

Beyond this legal fragmentation, consumer protection rules are not applied to all commercial services in a comparable way.

How effective are the legal actions ("**injunctions**") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following **economic sectors**?

	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion / don't know
Online provision of goods, services and digital content	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Communications and internet access services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Financial services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Passenger transport	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Tourism and package travel	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Energy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other (please specify in the box below)	<input type="radio"/>				
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Please explain your reply (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Overall, application of injunctions is effective and more proportionate for addressing potential issues than overly strict ex ante regulation such as applied to telecoms' services.

How important are the following **problems** for protecting the rights of consumers?

	Very important	Rather important	Rather unimportant	Unimportant at all	No opinion / don't know
Consumers don't know/ don't understand their rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Traders don't know/ don't understand consumer protection rules	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Traders don't comply with consumer protection rules	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consumer law is too complex	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

There are significant differences between national consumer protection rules across EU countries	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
National administrative authorities lack legal powers to enforce consumer rights	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
National authorities responsible for enforcing consumer rights are not active enough	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Court proceedings are complex / long / costly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Administrative enforcement proceedings are complex / long / costly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Injunctions proceedings are complex / long	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Injunctions proceedings are costly	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are significant differences between national rules on injunctions proceedings across EU countries	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify in the box below)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply, including any other problem that wish to highlight (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Overall, current horizontal laws prove to be efficient and there are only some adjustments required. This includes information requirements which enable consumers' informed choice and which should apply to any commercial contract irrespective of the kind of remuneration. Also with regard to law enforcement, there is a need to increase effectiveness. From GSMA and ETNO members' view, the main problem for the effectiveness in protecting consumers refers to the lack of harmonised protection standards.

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)?

- very effective
- rather effective
- rather not effective
- not at all effective
- no opinion / don't know

Please provide information on any successful self- and co-regulation initiative and describe what makes it successful (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

What is your opinion regarding the following statements?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
Businesses can trade across the EU easily thanks to the harmonised EU consumer and marketing rules	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses are well protected against misleading marketing practices of other businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses are well protected against unfair comparative advertising of other businesses	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In your view, what are the **benefits for businesses** from complying with EU consumer and marketing law?

- Consumers whose rights are respected come back
- Consumers whose rights are respected bring/attract other consumers (by word of mouth, online endorsements)
- On the contrary, consumers whose rights are not respected discourage other consumers (damage to reputation)
- Compliant and hence trusted businesses can sell at higher prices
- There are no benefits
- No opinion / don't know
- Other

Please specify

100 character(s) maximum

Consider ETNO and GSMA members' detailed elaborations included in the complementary policy paper.

What is your most **accurate estimate of the direct costs** of compliance with consumer and marketing rules for **the companies you represent**, e.g. costs of providing legal guarantee for goods, complying with consumer information requirements? (% of annual turnover)

%

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

	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know
Amount & relevance of information available to consumers to compare and make informed purchasing choices	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A level playing field amongst EU-based businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Protection of consumers against unfair commercial practices	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protection of businesses against misleading marketing and unfair comparative advertising	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Availability and choice of products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lower prices of products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Higher quality and longer durability of products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

More customers and revenues for EU-based businesses	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase of national e-commerce (i.e. within the trader's EU country)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase of e-commerce across EU Member States	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Competitiveness of EU businesses vis-à-vis non-EU businesses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

As explained above, ETNO and GSMA consider the fragmentation of rules as a severe issue for fair competition and consistent consumer protection standards. In addition, cross-border fragmentation of rules impedes EU-wide service supply and demand. The telecoms sector is particularly disadvantaged given the overly strict additional sector specific regulation and higher cross-border fragmentation of telecom-specific law.

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

	Very effective	Rather effective	Neutral	Rather not effective	Not effective at all	New Text
An individual consumer gets redress through direct negotiations with the trader	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

An individual consumer gets redress through an alternative dispute resolution mechanism	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An individual consumer gets redress through a court action	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An individual consumer gets redress through an administrative enforcement decision	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An administrative authority issues an injunction which stops an infringement of consumer rights	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>A court issues an injunction which stops an infringement of consumer rights</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Other (please specify in the box below)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Consumers have a variety of possibilities to address complaints and effectively assert their rights. First of all, this refers to telecoms' customer care services, which provide satisfactory solutions for the bulk of consumers' complaints. Only in selected cases, a court decision might be helpful to bring a required clarification. Alternative dispute resolutions may complement these mechanisms. Other possible mechanisms such as court action and injunctions are available, however, should only be considered as last resort.

How effective are the **injunction actions** sought against the following illegal practices?

	Very effective	Rather effective	Neutral	Rather not effective	Not effective at all	No opinion / don't know
<p>Use by traders of unfair standard contract terms</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Use by traders of misleading or aggressive commercial practices</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Breach of the traders' obligations related to the legal guarantee</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Breach of the traders' obligations related to the information they are legally required to provide to consumers</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Breach of the traders' obligation related to the consumers' right of withdrawal (cancellation) for distance and off-premises contracts</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Other illegal practices (please specify in the box below)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Injunctions can be considered an effective instrument to tackle any of these listed problems. However, as described in previous section, injunctions are a last resort. Besides general regulation, co- and self-regulation appear to be more effective to address general problems in the market.

How strongly do you agree or disagree with the following statements about the **interplay between the Injunctions Directive and the provisions on enforcement of consumer rights** included in other Directives covered by this questionnaire?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
There is a need for clarification of the interplay between the Injunctions Directive and other provisions on enforcement of consumer rights	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is a need for ensuring coherence between the Injunctions Directive and other provisions on enforcement of consumer rights	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Clarification and regulatory coherence is key to ensure legal certainty and to avoid regulatory overlaps. This goes beyond horizontal rules and should include sector-specific law such as applied to telecoms.

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **consumer financial services**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p>Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Low relevance for telecoms operators.

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **passenger transport**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
<p>EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p>The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Low relevance for telecoms operators.

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **energy supply (electricity and gas)**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
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<p>EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	○	○	○	○	●
<p>Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector</p>	○	○	○	○	●
<p>Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them</p>	○	○	○	○	●
<p>The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate</p>	○	○	○	○	●

<p>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
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Please explain your reply (optional)

1500 character(s) maximum

Low relevance for telecoms operators.

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **electronic communications services**?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
<p>EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

Sector specific rules applicable to electronic communications services creates an un-level playing field for telecoms and fragmentation of consumer protection standards. Additionally, these overly strict additional rules are neither efficient nor proportionate. Consumers are usually not aware of the details of different applicable regulations.

How strongly do you agree or disagree with the following statements about the **interplay** between EU consumer and marketing rules and the EU sector-specific consumer rights in the area of **environmental protection - rules on Ecodesign, energy labelling, car labelling, emission limits for vehicles etc.?**

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
EU consumer and marketing rules provide adequate complementary protection regarding issues, which are not expressly regulated by the sector-specific EU rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Consumers are aware about the complementary application of EU consumer and marketing rules in the specific sector	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

<p>Traders in the relevant sector are aware of the complementary application of these EU rules and comply with them</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The competent public enforcement authorities in the relevant sector are aware of the complementary application of these EU rules and enforce them where appropriate</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>The co-operation between the various public enforcement authorities in charge of consumer protection should be strengthened</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your reply (optional)

1500 character(s) maximum

Low relevance for telecoms operators.

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?

	<p>Strongly agree</p>	<p>Tend to agree</p>	<p>Tend to disagree</p>	<p>Strongly disagree</p>	<p>No opinion / don't know</p>
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<p>The marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The information given to consumers at the advertising stage should focus on the essentials whilst more detailed information should be required only at the moment before the contract is concluded</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Online platform providers should inform consumers about the criteria used for ranking the information presented to consumers</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The presentation of pre-contractual information to consumers should be simplified by applying a uniform model, e.g. using icons</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The obligation to display also the price per unit (eg, 1 Kg, 1 l) of the goods should apply to all businesses irrespective of their size</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

<p>Consumer protection against unfair commercial practices should be strengthened by introducing a right to individual remedies, e.g. compensation and/or invalidity of the contract when the consumer has been misled into signing a disadvantageous contract</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Consumer protection against unfair contract terms should be strengthened by introducing a "black list" of terms that are always prohibited</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>The presentation of key standard Terms and Conditions to consumers should be improved by applying a uniform model, e.g. using icons</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Consumer protection against unfair contract terms should be strengthened by incorporating key Court of Justice case law on the ex officio duties of judges to assess the presence of unfair terms</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>The legal guarantee period for goods should depend on their characteristics</p> <p>(If you agree with this statement please indicate the relevant characteristics in the box below, e.g. the category of the good (such as small/large household appliances, ICT products, cars etc.), price, expected/advertised lifespan)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>The period during which the defect is presumed to have existed already at the time of delivery of the good (reversal of the burden of proof) should be extended. It is 6 months under current EU law but longer in a few EU countries</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>The notion of "vulnerable consumers" should be reviewed/ updated. Under current EU law vulnerable consumers are those that are particularly vulnerable to unfair commercial practices because of their mental or physical infirmity, age or credulity</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>There should be additional requirements for the protection of "vulnerable consumers" as regards standard contract terms</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

<p>The notion of "average consumer" should be reviewed/ updated.</p> <p>According to the case law of the EU Court of Justice, the average consumer is defined as reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Further criteria should be defined to allow for a clearer distinction between consumers and traders in the collaborative economy</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<p>EU injunctions proceedings should be made more effective, e.g. by allowing their use for more types of infringements and by reducing their costs and length</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>EU consumer and marketing rules should be further harmonised to make it easier for traders to offer their products/services cross-border and for consumers to rely on the same level of protection across the EU</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>EU consumer and marketing rules should be simplified by bringing them into a single horizontal EU instrument</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Consumer protection should be strengthened by making sure that non-compliant businesses face truly dissuasive sanctions amounting to a significant % of their yearly turnover</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Other (please specify in the box below)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply, including suggestion(s) for other area(s) where the current EU consumer and marketing rules should be improved (optional)

2500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

The assessment of potential areas to improve consumer protection has to be performed very thoroughly, seeking a differentiated approach. Some of the proposed measures are urgently required, while others would not or not significantly increase consumers' benefit but impose high costs for industry.

Improvement of consumer protection would derive from a more streamlined approach, with consistent protection standards for all services that are more effectively enforced. Any commercial services that is based on remuneration (e.g. money or submission of personal data for monetisation) needs to be adequately covered, ensuring that consumers can make an informed choice and know their rights. New issues around e.g. lack of transparency or discrimination needs to be tackled through an updated horizontal framework.

Identified problems with regard to B2B should be addressed through proportionate and reasonable means, considering that consumer protection rules cannot reasonably be extended to businesses.

To what extent do you agree or disagree with each of the following statements about **potential areas to improve the protection of businesses**, especially SMEs and in particular micro enterprises?

	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion / don't know
Businesses protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Business protection against unfair commercial practices should be extended to practices happening not just at the marketing stage but also after the signature of the contract	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>Business protection against unfair commercial practices should be strengthened by introducing a right to individual remedies, e.g. compensation and/or invalidity of the contract when the business has been misled into signing a disadvantageous contract</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Business protection against unfair contract terms should be strengthened by extending totally or partially the scope of application of the Unfair Contract Terms Directive to B2B contracts</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Business protection against unfair commercial practices should be strengthened by introducing an enforcement co-operation mechanism for cross-border B2B infringements</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>The scope of application of the Injunctions Directive should be enlarged to cover the protection of collective interests of businesses</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>Other (please specify in the box below)</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your reply and any other suggestion(s) for area(s) where the current EU rules for the protection of businesses should be improved (optional)

2500 character(s) maximum

Please consider ETNO and GSMA members' detailed elaborations on each question included in the complementary policy paper.

You can also upload an additional policy paper here

[a1ccfa48-f6a3-4f28-b99e-57d174057de3/Complementary_Policy_Paper_ETNO_GSMA_Fitness_Check_E](https://ec.europa.eu/competition/antitrust/actions_penalties/complimentary_policy_papers/a1ccfa48-f6a3-4f28-b99e-57d174057de3/Complementary_Policy_Paper_ETNO_GSMA_Fitness_Check_E)

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