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Consumer protection policy in the EU

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Abstract

Consumer protection refers to the legal and institutional framework that safeguards consumer welfare and rights by preventing unfair commercial practices and ensuring transparent market information. Elsewhere, consumer protection policy occupies an important place in working on the formation and strengthening consumers confidence in the European Union (EU). This paper discusses the gestation, rationale, and implementation of the EU consumer protection laws which have been majorly implemented through the Treaty on the Functioning of the European Union (TFEU) and the Charter of Fundamental Rights. This includes the Consumer Rights Directive, the Unfair Commercial Practices Directive, or the more recent Digital Services Act with a special focus on their functions whose aim is the protection of the consumer from unfair business practices.

Thus, this paper also discusses existing case law such as Planet49 as well as the recent case of Banco Español de Crédito that supports the EU’s consumer protection agenda. However, it is important to point out that the EU has several limitations in this respect, including cross-border enforcement, regulation of the digital market place, and guaranteeing totality of protection throughout the EU member countries.

Keywords: Consumer Protection, EU Law, Consumer Rights Directive, Unfair Commercial Practices Directive, Digital Services Act, GDPR, Case Law, Market Regulation.

1. Introduction

Consumer protection safeguards the well-being and interests of consumers through education, mobilization and representation.¹ The mechanisms operating within the marketplace consist of laws and regulations designed to safeguard consumers' interests and uphold their rights. The consumer protection system ensures fair trading practices and the availability of accurate market information, while simultaneously providing protection against misleading or deceptive business conduct. Consumer protection maintains market confidence through its vital role in fostering competitive health and consumer safety. It establishes four fundamental rights for consumers which consist of safety security as well as information access combined with free choice alongside complaint resolution. Government entities along with international organizations create standards through which companies must comply for product quality alongside business practice transparency and product specifications. The establishment of effective consumer protection creates market trust and improves consumer welfare which drives economic development. Consumer protection in the EU plays a particularly significant role, as the EU strives to harmonize legal standards across member states, ensuring equal protection for all consumers within the single market.² The EU has established a complete consumer protection policy whose main purpose is to guarantee strong safeguards for all consumers. The legal foundation for this policy is primarily set out in Article 169 of the Treaty on the Functioning of the European Union (TFEU), which grants the EU the competence to adopt measures that protect consumer interests.³ Additionally, Article 38 of the Charter of Fundamental Rights of the European Union explicitly recognizes consumer protection as a fundamental right.⁴

To maintain a uniform consumer standard across Europe, the European Union employs both directives and regulations. Member States are required to achieve the objectives set out in EU directives through their national legislation, whereas EU regulations apply automatically and directly in every EU country. Furthermore, EU institutions such as the European Commission, the European Parliament, and the Council of the European Union collaborate to monitor and enforce consumer protection laws.⁵ Cooperation between national authorities through mechanisms like the Consumer Protection Cooperation (CPC) Regulation further strengthens cross-border enforcement.⁶

¹ Consumer Protection. (2025). <https://aseanconsumer.org/cterms-consumer-protection>

² European Commission, "Consumer Protection in the EU," https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints_en.

³ Treaty on the Functioning of the European Union (TFEU), Article 169 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016E169>.

⁴ Charter of Fundamental Rights of the European Union, Article 38 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT>.

⁵ European Commission, "EU Consumer Policy," https://ec.europa.eu/info/policies/consumers_en.

⁶ European Commission, "Consumer Protection Cooperation Regulation," https://ec.europa.eu/info/law/law-topic/consumer-protection-law/consumer-protection-cooperation-regulation_en.

2. Historical background and development

The European Union has made significant advancements in consumer protection over several decades. During the foundational period of European integration, the primary focus of the Member States was the development of the economy and the creation of trade benefits. Although the European Economic Community did not incorporate consumer protection into its founding treaties in 1957, consumer rights soon proved essential for establishing an open and fair economic area. Sets of rules set up to protect consumers against risks came into focus as a government issue during the 1970s. Recognizing the need to balance economic growth with social protection, the European Commission introduced its First Consumer Protection Programme in 1975.⁷ The scheme started the EU's movement towards standardizing and joining consumer rights protection across all member states. It introduced essential rights to consumer information along with health and safety safeguards and ways to seek relief. In the years that followed EU leaders made consumer protection a regular part of their policy work. The Single European Act (SEA) of 1986 further reinforced this commitment by incorporating consumer protection into the broader goal of creating a unified internal market.⁸ The EU decided to strengthen consumer laws because high-quality protection builds trust between consumers and companies during their international transactions. Several important laws and administrative steps have defined EU consumer protection policies. The 1980s and 1990s brought the Second and Third Consumer Action Plans which added more consumer safeguards to EU guidelines. They developed new strategies to handle problems which previously had no regulations including contract terms, advertising messages and product standards. The Consumer Rights Directive of 2011/83/EU became a major step forward in EU consumer protection efforts. This rule sets a common standard on consumer contract rights throughout EU member countries and strengthened consumer protection by letting them cancel contracts more easily plus see all costs. Through the new rules the EU wanted all buyers to know better what their consumer rights were in the EU Member Countries. Additionally, the General Data Protection Regulation (GDPR), which came into effect in 2018, further enhanced consumer protection in the digital age.⁹ Behind businesses that operate in the EU the GDPR created new data handling regulations to better protect consumer privacy. The changes helped companies to deal with the digital marketplace and e-commerce business conditions. EU consumer protection rules come from main legal documents termed treaties and laws. Article 169 of the Treaty on the Functioning of the European Union (TFEU) provides the EU with the authority to adopt measures that promote the health, safety, and

⁷ European Commission, "The First Consumer Programme" <https://ec.europa.eu/consumers/first-consumer-programme>.

⁸ Single European Act, 1986 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A11986U%2FTXT>.

⁹ European Parliament, "Consumer Protection Milestones," <https://www.europarl.europa.eu/factsheets/en/sheet/48/consumer-protection>.

economic interests of consumers.¹⁰ Under this article the EU develops most consumer protection standards. Moreover, the Charter of Fundamental Rights of the European Union reinforces the importance of consumer protection through Article 38, which explicitly recognizes the right of consumers to a high level of protection.¹¹ The EU legal structure considers consumer protection as a fundamental human right because this principle appears in the Charter. In addition to the TFEU and the Charter, the Unfair Commercial Practices Directive (2005/29/EC) and the Consumer Rights Directive (2011/83/EU) are among the most influential legislative acts.¹² These guidelines form the basis of laws that prevent dishonest business practices and ensure that consumers have clear visibility of all contractual terms, while also safeguarding them when purchasing online across EU countries. Together, these laws operate to protect the consumer rights of all residents in every EU Member State throughout the Union.

3. Legal framework of EU consumer protection policy

The EU bases its consumer protection system on foundational EU laws particularly the Treaty on the Functioning of the European Union (TFEU) and the Charter of Fundamental Rights of the European Union. The TFEU gives EU authority to stimulate consumer protection policies that aid health and economic wellbeing. This foundation lets EU members standardize their consumer protection laws to guard consumers in a united way. TFEU recognizes protection of consumers as an essential human freedom through Article 38. The Charter requires Union policies to offer top-quality protection for consumers throughout the EU. EU's fundamental legal documents create the base from which member countries develop their consumer protection rules. In addition to main EU laws the organization uses directives regulations and decisions as secondary legislation. Directives make up most EU secondary laws and oblige member states to transfer them into their national legal codes. EU regulations enter into force in every EU country without needing national adoption and enforcement mechanisms. The EU uses these two systems together to protect consumers while allowing national adjustments. Several EU institutions team up to make sure consumer protection policy works correctly. The European Commission plays a leading role in proposing and drafting consumer protection legislation.¹³ The Parliament's IMCO Committee engages in creating laws that safeguard consumer rights for European Union citizens. As a co-legislator it enables a democratic system that does not hide important discussions from citizens. The Council of the European Union comprises government ministers who decide on legislation from all European Union member nations. Together with the European Parliament this Council unit

¹⁰ Treaty on the Functioning of the European Union (TFEU), Article 169 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016E169>.

¹¹ Charter of Fundamental Rights of the European Union, Article 38 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT>.

¹² European Commission, "Unfair Commercial Practices Directive," https://ec.europa.eu/info/law/law-topic/consumer-protection-law/unfair-commercial-practices-directive_en.

¹³ European Commission, "Role of the Commission in Consumer Protection," https://ec.europa.eu/info/departments/consumer-protection_en.

represents both national administrations and everyday EU citizens to improve consumer rights. The EU collaboration system helps the organization react well to current consumer problems. The European Union has established several key legal instruments through directives and regulations to ensure effective consumer protection. Among them, the Consumer Rights Directive (2011/83/EU) stands out as one of the most important. Through this directive, EU legislators harmonize contractual rules for consumers, requiring businesses to provide clear pre-contractual information and to offer withdrawal options before the conclusion of a sale. These provisions prevent unfair contractual terms and enhance consumer trust within the single market by introducing essential safeguards. The Unfair Commercial Practices Directive (2005/29/EC) also serves as a crucial mechanism. This instrument prohibits business conduct that misleads consumers or exerts undue pressure on them, thereby ensuring fairness at every stage of the commercial process, including both online and in-store transactions. National authorities are empowered to impose penalties on businesses that engage in unfair or unlawful practices. The General Product Safety Regulation (EU) 2023/988 establishes comprehensive safety requirements for all consumer products placed on the EU market. Manufacturers must verify compliance with safety standards before introducing their products to consumers, thereby protecting the public from goods that pose safety risks or contain manufacturing defects. Several sectors are further regulated through additional consumer protection instruments, such as the Package Travel Directive (2015/2302) and the EU Digital Services Act (2022/2065), which extend consumer safeguards across a range of industries.

4. Key areas of consumer protection

The EU has established a comprehensive legal framework to ensure that consumers receive appropriate information when making purchases and are adequately safeguarded throughout the buying process. The Consumer Rights Directive 2011/83/EU stands as a fundamental legislative tool that protects consumer rights across the EU. It mandates that traders provide clear and accurate information to consumers before a purchase, including details on pricing, product characteristics, and applicable delivery costs.¹⁴ Under distance and off-premises contracts consumers have the right to exercise a 14-day withdrawal period where they can cancel their purchases without any reason. Digital customers specifically need this right because they cannot personally check goods before making purchases. The directive implements restrictions against hidden costs together with pre-ticked box requirements that must be approved by consumers while they shop online. According to directive standards all extra payments need the specific authorization of consumers so they cannot face deceitful pricing schemes for undesirable services. National authorized entities have the responsibility to track businesses that fail to comply with these regulations and issue penalties to non-compliant companies.

¹⁴ Consumer Rights Directive (2011/83/EU) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0083>.

The imposed measures build trust in international trade operations thus leading to development of an internal market structure which meets consumer requirements. The Unfair Commercial Practices Directive (2005/29/EC) exists as an EU legislation which safeguards consumers against deceptive business conduct. The directive bans deceptive business practices as well as aggressive behavior which distorts consumer choice in their purchases. The directive bans businesses from using false deceptive advertising and withholding vital information while prohibiting them from using aggressive methods such as harassment and coercion on behalf of consumers. Such actions are banned through the directive to create a marketplace that operates with transparency and fairness. Under this directive national authorities retain powers to investigate unfair business practices as well as impose appropriate penalties on such companies. The implementation of the General Product Safety Regulation (EU) 2023/988 is important for consumer safety and a key priority for the EU. Legally, this regulation establishes strict requirements on safety for consumer products which are produced within the EU as well as those imported to the EU from other countries. Before they hit the market, products must be offered to producers and distributors which will ensure that they comply with stipulated safety standards. It also includes the obligation for businesses to promptly report dangerous products and to work together with market surveillance authorities in order to reduce risks. Under this directive, manufacturers are held strictly liable for damages caused by defective goods, even without proof of negligence.¹⁵ For defective products that lead to harm, the Product Liability Directive (85/374/EEC) grants to a consumer the right to sue for compensation. This is said to be a directive that holds manufacturers strictly liable for damages caused by defective products, regardless of negligence. The principle of strict liability ensures that consumers have a means of redress; it also imposes costs on producers to impose high safety standards. At the same time, recent reforms apply digital products and software (following the widespread reliance on connected devices currently), as part of extending liability. The Digital Services Act (EU) 2022/2065 has been adopted in response to the growth of digital commerce and with it, new challenges for consumer protection. This regulation imposes obligations on online platforms to ensure transparency in advertising, prevent the spread of illegal content, and combat fraudulent activities.¹⁶ It is therefore necessary that platforms provide consumers with clear information on the identity of sellers as well as tell consumers about their rights. It also requires platforms to have appropriate mechanisms for handling the complaints of consumers against the platforms.

5. Jurisprudence in the field of EU Consumer protection

5.1 *Case C-362/19 Bundesverband der Verbraucherzentralen v. Planet49*

The ECJ through its Planet49 ruling established clear guidelines about valid consent for internet data collection in European law. Planet49 GmbH operated an online

¹⁵ Product Liability Directive (85/374/EEC) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31985L0374>.

¹⁶ Digital Services Act (EU) 2022/2065 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065>.

promotional lottery through which participants needed to agree to cookies for entry conditions. Users had the option to consent to data tracking with pre-selected mark on this checkbox which enabled marketing cookie installation. The Federal Association of Consumer Centers (Bundesverband der Verbraucherzentralen) questioned the validity of such consent because in their assessment it failed to maintain the GDPR requirements for genuinely informed consent together with e-Privacy Directive standards.¹⁷ According to the ECJ the requirement for valid consent includes freedom from constraint and uses clear statements that give detailed information to users. Predominated checkbox options are declared invalid since users must take specific active steps to demonstrate consent according to the court's judgment. According to the Court, all users must make an explicit and intentional choice when providing consent for the processing of their personal data. A central requirement of the ruling is that users must be informed about the specific duration of data storage and any third-party access to their information when they are presented with cookie-related notices. Through the Planet49 ruling, consumers gained stronger protection in the digital environment, benefiting from increased transparency and an enhanced ability to manage their personal information.

5.2 *Case C-618/10 Banco Español de Crédito SA v. Joaquín Calderón Camino*¹⁸

Through the Banco Español de Crédito case the judicial authority examined consumer protection regarding unfair contractual terms under the Unfair Terms in Consumer Contracts Directive (93/13/EEC). Joaquín Calderón Camino became a party to a loan agreement with Banco Español de Crédito SA. The bank established a default interest rate at 29% but Calderón Camino considered this a matter of unfairness. The Spanish court sent this matter to the European Court of Justice to determine how much legal power judges have regarding unfair contract evaluation and nullification. National courts must determine contractual term fairness whether consumers explicitly ask them to do so or not according to the ECJ decision. The court stated that the core mission of the Unfair Terms Directive works to protect consumers by stopping businesses from taking advantage through terms that are one-sided or unfair. According to the court decision national courts need to check which contractual terms remain unenforceable on consumers while also preventing financial losses to consumers due to unfair terms. Strengthening the rights of consumers has been achieved through this ruling which prompts courts to actively defend vulnerable consumers from unfair commercial practices.

6. Challenges and criticisms

Despite the EU's strong consumer protection standards, many Member States face challenges in ensuring consistent application of the provisions and in enforcing the relevant rules across their territories. Levels of consumer protection vary among EU

¹⁷ EUR-Lex <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62017CJ0673>

¹⁸ EUR-Lex https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62010CA0618&qj:d=17430164_36377

countries, as different states apply distinct interpretations of the directives. National regulatory authorities may lack sufficient resources or expertise to enforce rules effectively, undermining the intended uniformity of EU.¹⁹ Geographic differences in laws enable businesses to find areas with lax regulatory systems to operate freely in. The Consumer Protection Cooperation (CPC) Regulation helps solve these problems through enhanced authority collaboration although success relies heavily on member state acceptance of joint action. The protection of consumers who interact across borders continues to present difficulties especially in an e-commerce environment. Consumers often experience barriers to obtaining solutions when addressing problems they have with companies situated in other member states. Consumers remain reluctant to utilize the Online Dispute Resolution (ODR) Platform and Alternative Dispute Resolution (ADR) Directive because of insufficient awareness about them and difficulties understanding different languages. Enforcement bodies experience difficulties in prosecuting non-compliant businesses because those companies frequently operate throughout several jurisdictions. European Consumer Centres (ECC) networks need to enhance their cooperation to guarantee all consumers receive proper treatment regardless of their place of residence. Digital markets' fast expansion creates intricate difficulties that consumer protection systems must deal with. The enforcement of consumer rights becomes harder due to platforms that function as connective links between buyers and third-party retailers. The responsibility for faulty products and misleading advertisements or data misuse stands unclear for investigators in most industry cases. The implementation of algorithmic pricing systems along with personalized advertising enables discriminatory measures which restrict consumer options. Continuous monitoring together with updates of existing legislation remain vital to maintain compliance in the fast-changing digital landscape despite provisions from the DSA and GDPR.²⁰

7. Conclusion

The European Union has developed an extensive and well-structured legal framework for consumer protection as an integral component of the single market. From the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights to the Consumer Rights Directive and the Digital Services Act, the EU has consistently demonstrated its commitment to safeguarding consumers. Several of these protections were examined in this paper through case law, including Planet49 and Banco Español de Crédito. Nevertheless, certain challenges persist—particularly regarding cross-border enforcement, governance of the digital economy, and the need to enhance consumer awareness of available redress mechanisms such as Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) platforms. Addressing these issues requires stronger cooperation among Member States and increased consumer education and empowerment. In this way, the EU

¹⁹ European Parliament, “Consumer Protection in the EU,” <https://www.europarl.europa.eu>.

²⁰ General Data Protection Regulation (GDPR) <https://eur-lex.europa.eu>.

can maintain its robust legislative foundation while adapting to evolving market conditions, consumer needs, and the ongoing demand for market transparency.

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