

JOINT SESSION OF PARLIAMENTARY COMMITTEES OF ITALY'S CHAMBER OF DEPUTIES

Committee on Transport, Post and Telecommunications

and

Committee on Industry, Trade and Tourism

Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the online and other distance sales of goods (COM(2015) 635 final)

APPROVED FINAL DOCUMENT

The Committee on Transport, Post and Telecommunications and the Committee on Industry, Trade and Tourism of Italy's Chamber of Deputies,

having examined, pursuant to Rule of Procedure No. 127 of the Chamber of Deputies, the Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the online and other distance sales of goods (COM(2015) 635 final),

whereas:

Online retail sales are rising steadily: today about 50 per cent of EU consumers (though the proportion varies significantly from country to country) make purchases online because of the advantages this method offers in terms of resources and the range of choice available;

The proposed Directive aims at the full harmonisation of EU legislation on online sales and other forms of distance selling and Member States will be prevented from adopting or maintaining divergent laws, so as to supersede the existing legal differences in the various jurisdictions. In fact, whereas legislation dealing with pre-contractual disclosure, contract termination and delivery terms has been fully harmonised, Member States have adopted different rules relating to such contractual elements as conformity requirements and alternative remedies to contract termination, which are crucial in terms of consumer protection, as well as to the mode of exercise of those consumer rights;

These regulatory inconsistencies constitute an obstacle to the development of online sales, because consumers have little confidence in cross-border online transactions and prefer to purchase within their home country, with the result that they have a more limited range of goods at less competitive prices at their disposal;

To ensure consumers enjoy the use of the goods according to the terms of the contract, the goods must be unencumbered by any third-party rights, including those based on intellectual property;

Compared with current legislation, the Directive is advantageous to consumers who would no longer be required to report defects in their purchased goods within two months of acquisition, while the burden on the seller to prove the absence of defects would be extended to two years, rather than six months as now;

The proposal also provides for a hierarchy of options for the buyer, consisting of, in order, the repair or replacement of the good, a proportionate reduction of price, and termination of contract. In addition, the proposal sanctions the consumer's right to withhold the payment of any outstanding part of the price until the seller has brought the goods into conformity with the contract;

Mindful that the present Final Document needs to be forwarded without delay to the European Commission as part of the political dialogue, as well as to the European Parliament and the Council;

express their favourable opinion

with the following remarks:

- a) It is necessary to assess whether the proposed changes, which place the burden of proof almost entirely on the seller, are likely to make sellers so uncertain about their obligations as to discourage distance sales, which would work against the objective of promoting the development of cross-border trade and lead to an increase in litigation;
- b) It is unclear how the provision that goods should be unencumbered by third-party rights, including those based on intellectual property, can be applied to goods for which intellectual property rights obtain (such as books or discs subject to copyright, or design objects that are protected by patent or trademark), and the European Commission should therefore promptly

present the legislative proposals it has announced for the revision of current laws in this area;

- c)* Consideration ought to be given to setting a time limit within which the buyer must report the lack of conformity of a good, and the limit should be the same in all Member States;
- d)* In order to avoid situations of uncertainty, consideration should be given to the possibility of introducing a maximum time limit within which the seller must repair or replace a good so that consumers may exercise their right to terminate a contract;
- e)* To remove the language barriers that impede the development of electronic commerce, every possible initiative should be taken to ensure that citizens and businesses can avail themselves of multilingual electronic services that deploy the tools of computational linguistics, which permit the making of semantic comparisons and the rapid and unequivocal translation of concepts and content;
- f)* The Strategy for the Digital Single Market envisages measures regulating cross-border parcel delivery that need to be adopted as soon as possible so that the delivery costs for consumers will tend towards the lowest levels that best practices allow;
- g)* To ensure the maximum degree of transparency in supply and to afford consumers the opportunity to make as informed a choice as possible, consideration should be given to the possible introduction of measures to prevent sellers from using mechanisms to conceal the price of goods for sale from search engine crawling and indexing or from price comparison services, as well as of the mandatory disclosure of information about goods and services and their prices, using standardised and uniform formats and ontologies across the entire Digital Single Market.