



**COUNCIL OF
THE EUROPEAN UNION**



Luxembourg, 21 April 2005
8124/05 (Presse 88)
(OR. fr)

Adoption of a Directive on unfair commercial practices

Today the Council adopted a Directive prohibiting unfair commercial practices by businesses that adversely affect consumers' interests, with the incorporation of all amendments passed by the European Parliament (11630/2/04 + ADD 1; 6618/05; 7860/05 + ADD 1, ADD 2, ADD 3, ADD 4 and ADD 5).

The purpose of the Directive is to enhance consumer protection while harmonising Community legislation in this field, thus encouraging the development of cross border activities.

The new Directive both establishes criteria for determining the unfair nature of a commercial practice and specifies two main types of unfair practice identified: misleading and aggressive practices.

P R E S S

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The list of practices considered unfair in all circumstances, which is annexed to the Directive, will be applicable in all Member States. The following practices in particular will be considered unfair:

- including in an advertisement a direct exhortation to children to buy advertised products or to persuade their parents or other adults to buy advertised products for them;
- claiming that a product has been approved, endorsed or authorised by a public or private body when it has not;
- falsely stating that the product will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice;
- promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not;
- falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer;
- creating the false impression that after-sales service in relation to the product is available in a Member State other than the one in which the product is sold;
- requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or systematically failing to reply to related correspondence;
- creating the false impression that the consumer has won, is to win or will on doing a particular act win a prize, when in fact either there is no prize or taking any action in relation to claiming the prize is subject to the consumer paying money or incurring a cost.

Member States will take the measures necessary to inform consumers of the provisions of national law that transpose this Directive and encourage traders to inform consumers of their codes of conduct.

The new provisions will have to be applicable in all Member States within two and a half years of the publication of the Directive in the Official Journal of the European Union.

This Directive updates existing Directives on:

- the protection of consumers in respect of distance contracts (Directives 84/450/EEC and 97/7/EC);
 - injunctions for the protection of consumers' interests (Directive 98/27/EC);
 - the distance marketing of consumer financial services (Directive 2002/65/EC).
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