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## Winds of digital change in the Consumer Protection Landscape

**The much discussed and anticipated Directive 2019/2161/EU (hereinafter “the Directive”), which has been adopted by the European Council on 27 November 2019, lays down several amendments to consumer protection rules in relation to unfair terms in consumer contracts, indication of prices offered to consumers, unfair B2C commercial practices and consumer rights in general.**

It is to be noted that our Firm has been invited to participate in the legislative commission of the Ministry of Development and Investments for the implementation of the Directive into Greek law. The deadline for the implementation by Member States is 28 November 2021 but it is expected that said amendments will be legislated in Greece sooner than the set deadline

Upon its implementation into Greek law, the Directive will introduce amendments into Consumers’ Law 2251/1994.,

The Directive introduces amendments to the following existing Directives:

1. **1993/13/EC** on Unfair terms in consumer contracts
2. **1998/6/EC** on Consumer protection in the indication of products’ prices offered to consumers
3. **2005/29/EC** on Unfair business-to-consumer commercial practices
4. **2011/83/EC** on Consumer rights

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### 1. Unfair terms in consumer contracts (1993/13/EC)

- A new article is introduced in order to ensure the coordination on the imposition of penalties on major cross-border infringements by traders against consumers; the Directive provides national authorities with the power to impose effective, proportionate penalties in a coordinated manner; Indicators such as the nature, gravity, scale and duration of the infringement, actions taken by the seller/supplier to mitigate the damage, previous infringements by the seller/supplier, penalties imposed on the seller or supplier for the same infringement in other Member States to be taken into consideration..
- National authorities will have the power to impose a fine of up to 4% of the trader’s annual turnover or, if the last is not available, up to 2 million EUR. Members States will be free to keep or introduce higher maximum fines.

## 2. Indication of products' prices offered to consumers (1998/6/EC)

- Sellers will have to indicate as reference price the lowest price applied within a period of at least 30 days before the price reduction announcement (Under the current regime this provision in Greece applies to long-lasting industrialised goods, clothes and shoes).
- Member States may provide that when the price reduction is progressively increased, the prior price is the one without the price reduction before the first application of the price reduction.

## 3. Unfair business-to-consumer commercial practices (2005/29/EC)

- The Digital services and content will now fall within the definition of “product” and under the scope of the law on protection of consumers against unfair commercial practices followed by the traders/sellers.
- Any marketing of a good, in one Member State, identical to a good marketed in other Member States, while that good has significantly different composition or characteristics, unless justified by legitimate and objective factors, is characterised also as a misleading business practice (tackling dual quality of consumer goods).
- Additional minimum information needs to be provided to consumers while purchasing online especially in the trending “marketplaces”, for example information on whether the supplier or the marketplace is responsible for delivery or handling the returns under the right of withdrawal.
- Traders giving access to consumer reviews will have to explain if and how they ensure that reviews come from real consumers. Fake or paid reviews will be prohibited.

## 4. Consumer Rights Directive (2011/83/EC)

- The Directive broadens the scope of application to contracts in digital environments where consumers pay with personal data. The trader is restricted to use any content – other than personal data – created or provided by the consumer, while the latter can also request the trader to make available to him that digital content.
- The providers of “free” online services in digital environments (such as social media) have further additional minimum obligations. For example, they have to provide the consumers with clear information about the services' main characteristics, the duration of the contract and the termination conditions. Consumers may also withdraw from online contracts within 14 days without providing a reason.
- Member states can take additional national measures against unfair practices in doorstep selling and commercial excursions, since the withdrawal period may be extended from 14 days to 30 days.

The above indicative amendments are only part of the upcoming changes that the Directive introduces and should be seen in conjunction with the upcoming amendments of the consumer protection landscape coming from a wave of further EU Directives such as EU Directive 771/2019 (*on certain aspects concerning contracts for the sale of goods*), EU Directive 790/2019 (*on copyright and related rights in the Digital Single Market*) and EU Directive 770/2019 (*on the provision of digital content and digital services*).

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