

Opinion of the Committee of the Regions on Consumer Rights: quite a critical view on the Proposal for a Directive of the European Parliament and of the Council on consumer rights

The opinion of the Committee of the Regions on Consumer Rights has been published in today's OJ, C 200/76. Notwithstanding the approval of the Commissions proposal aiming to consolidate existing consumer protection directives into a single set of rules (8 October 2008) the Committee expresses a quite critical opinion on several basic points of the proposal, such as the scant number of directives subject to revision, the definition of fundamental terms ("consumer", "trader"), or the provisions relating to general information requirements. More interesting from a PIL point of view is the serious criticism addressed against the proposals axis idea, that of full harmonisation: the Commission having so far failed to give cogent reasons for switching to full harmonisation in this area, it does not appear to be strictly necessary, seems inconsistent with the basic tenets of subsidiarity, and implies that the Member States may have to sacrifice particular consumer protection provisions, even where these have proved effective in the country concerned. The Committee also has its doubts as to whether full harmonisation will boost consumer confidence and foster competition, considering that up to now, consumer difficulties have mostly been caused by the uncertainties and complexities of law enforcement in cross-border trade (language barriers, legal fees, courts costs, etc.) which are not removed by the proposed directive. The Committee holds to the idea that full harmonisation should be considered selectively, i.e. in specific technical cases only, where the different national provisions in place are genuinely placing a burden on cross-border businesses, or represent a substantial obstacle to achieving the four freedoms of the European Union: full harmonisation should therefore be applied in just a few core areas of the internal market.

Note: a quite expressive title, “Cronica de una muerte anunciada: the Commission Proposal for a Directive of Consumer Rights”, from H. W. Micklitz and N. Reich, can be read in Common Market Law Review, 2009 (vol. 46).