

The EU Consumer Rights Directive – What impact does it have on your businesses?

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What is it and what does it aim to do?

On Monday 10 October 2011, the EU Council adopted the Consumer Rights Directive (the 'CRD') which aims to increase consumer protection and confidence in doorstep and distance selling across Europe.

Currently, traders and consumers selling and buying goods and services across the EU have to contend with a hotchpotch of rules and regimes. The CRD aims to simplify and harmonise the legislation so as to restore consumer confidence and facilitate inter-Member State trade.

Does it apply to you? If so, what does this mean for your business?

The CRD rules will apply to Internet, phone and mail order services, in addition to sales outside of shops and door sales (solicited and unsolicited). It will not apply to financial services, timeshare and package holiday contracts. Its impact will be wide ranging and will mean that businesses will have to make numerous administrative adjustments in order to comply with the following rules:

Longer withdrawal period

Customers will now have 14 calendar days to withdraw from the contract without having to give any reason. This is an increase from the current seven-working-day cooling-off period under the UK's Consumer Protection (Distance Selling) Regulations 2000.

The withdrawal period for service contracts will expire 14 days from the conclusion of the contract, whereas for sale contracts, the withdrawal period expires 14 days from the day the customer receives physical possession of the goods (or where he/she has bought a number of goods from the day s/he received the last good).

Should you fail to inform the customer about his/her withdrawal right, the withdrawal period will be extended for a further 12 months from the end of the original 14-day period.

As is currently the case, the customer will still not be able to exercise his rights of withdrawal for tailor-made or personalised goods. Furthermore, the customer will be liable for any diminished value of the goods where s/he has used the goods to an extent more than necessary to establish the nature, characteristic and function of the goods.

Stringent refund rules

The CRD imposes a time limit of 14 days in which businesses must fully reimburse the customer for the product and the cost of standard delivery. The 14 days runs from the moment the business receives the customer's withdrawal notification.

You will have to clearly advise customers that they have to bear the costs of returning the goods and provide an estimate of this cost for larger goods at the outset of the contract. If you fail to do this, you will have to bear the costs of return in addition to delivery costs.

Prohibition on hidden charges and costs

You will have to disclose the total cost of the product or service, including any extra fees, and seek the express consent of the customer before s/he is bound by the contract. The customer will be entitled to a refund if s/he has not been informed of such costs at the outset.

Pre-ticked boxes

All pre-ticked boxes for supplementary services to a purchase of particular goods or services, such as travel insurance, car rental and baggage, are banned. Customers will now have to actively tick the boxes should they wish to add the additional services rather than be forced to untick the boxes if they do not want these services.

Delivery deadline and risk

You must deliver the goods to the customer within 30 days (unless otherwise agreed) from the conclusion of the contract. Failure to do so will entitle the customer to terminate the contract and you will have to reimburse all sums paid under the contract.

Where the trader has arranged or carried out the transportation of the goods, the CRD provides that the trader must bear the risk of loss and damage until the customer has physically received the goods.

Prohibition of surcharges on payment method and hotlines

You will not be able to charge customers more for paying by credit or debit (or any other payment means) than the cost borne by you for the use of such payment means.

Furthermore, if you trade by telephone then you can only charge the customer the basic rate for such calls.

Detailed information to be provided

You must also provide the customer, in a clear and comprehensible manner, certain information including the main characteristics of the goods or services, details of the business such as trading name, registered address, phone number, email address, and your complaint-handling policy.

When does the CRD come into force?

The CRD is expected to be published in the Official Journal shortly. Once it has been published the UK government has two years in which to implement the directive. This transitional period will enable businesses to align their terms of trade to account for the new rules, so do watch out for further updates.

Please contact us if you have any further queries on the above or would like more information.

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