



2022/0092(COD)

29.9.2022

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on amending Directives 2005/29/EC and 2011/83/EU as regards empowering
consumers for the green transition through better protection against unfair
practices and better information
(COM(2022)0143 – C9-0128/2022 – 2022/0092(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Biljana Borzan

Rapporteur for the opinion of associated committees pursuant to Rule 57 of the
Rules of Procedure:
Edina Tóth, Committee on the Environment, Public Health and Food Safety

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act**Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information

(COM(2022)0143 – C9-0128/2022 – 2022/0092(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0143),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0128/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on the Environment, Public Health and Food Safety,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0000/2022),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) Environmental claims, in particular climate-related claims, increasingly relate to future performance in the form of a

Amendment

(4) Environmental claims, in particular climate-related claims, increasingly relate to future performance in the form of a

transition to carbon or climate neutrality, or a similar objective, by a certain date. Through such claims, traders create the impression that consumers contribute to a low-carbon economy by purchasing their products. To ensure the fairness and credibility of such claims, Article 6(2) of Directive 2005/29/EC should be amended to prohibit such claims, following a case-by-case assessment, when they are not supported by clear, objective and verifiable commitments and targets given by the trader. **Such** claims should also be supported by an independent monitoring system to monitor the progress of the **trader with regard to the** commitments and targets.

transition to carbon or climate neutrality, or a similar objective, by a certain date. Through such claims, traders create the impression that consumers contribute to a low-carbon economy by purchasing their products. To ensure the fairness and credibility of such claims, Article 6(2) of Directive 2005/29/EC should be amended to prohibit such claims, following a case-by-case assessment, when they are **based solely on carbon offsetting schemes or are** not supported by clear, objective and verifiable commitments and targets given by the trader, **including a detailed and realistic implementation plan to achieve the objectives set. That plan should include concrete and verifiable interim targets consistent with achieving the trader's long-term commitment, underpinned by a sufficient budget and based only on existing economically and technically viable technologies. The implementation plan, as well as the progress made throughout its implementation, should be made publicly available online and regularly reported upon by the trader.** Claims should also be supported by an independent monitoring system to monitor the progress of the **implementation plan, the trader's** commitments and targets. **Claims related to future environmental performance should not be used on product level, as they could mislead as to the current environmental performance of the concrete product in question.**

Or. en

Amendment 2

Proposal for a directive Recital 7

Text proposed by the Commission

(7) The displaying of sustainability

Amendment

(7) The displaying of sustainability

labels which *are not based on a certification scheme or not established by public authorities* should be prohibited by including such practices in the list in Annex I to Directive 2005/29/EC. *The certification scheme should fulfil minimum transparency and credibility conditions. The displaying of sustainability labels remains possible without a certification scheme where such labels are established by a public authority, or in case of additional forms of expression and presentation of food in accordance with Article 35 of Regulation (EU) No 1169/2011.* This rule complements point 4 of Annex I to Directive 2005/29/EC which prohibits claiming that a trader, the commercial practices of a trader, or a product has been approved, endorsed or authorised by a public or private body when it has not, or making such a claim without complying with the terms of the approval, endorsement or authorisation.

labels *or sustainability information tools* which *were not pre-approved by a national authority* should be prohibited by including such practices in the list in Annex I to Directive 2005/29/EC. *Sustainability labels or sustainability information tools that have been pre-approved by a competent national authority should be recognised by all Member States, according to the principle of mutual recognition, and should fulfil certain minimum requirements. The Commission should set out in a delegated act the minimum requirements for such labels and tools. The Commission should be empowered to adopt an implementing act to lay down the procedure for pre-approval of sustainability labels and sustainability information tools.* *Sustainability labels established by public authorities should be exempt from the pre-approval procedure.* This rule complements point 4 of Annex I to Directive 2005/29/EC which prohibits claiming that a trader, the commercial practices of a trader, or a product has been approved, endorsed or authorised by a public or private body when it has not, or making such a claim without complying with the terms of the approval, endorsement or authorisation.

Or. en

Amendment 3

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Annex I to Directive 2005/29/EC should also be amended to prohibit environmental claims being made that state that a good has a neutral or positive carbon emissions' impact on the environment. Examples of such

environmental claims are ‘carbon neutral’, ‘carbon positive’, ‘climate neutral’, ‘CO2 neutral’, ‘carbon neutral certified’. Such claims should be prohibited as they imply carbon emissions’ neutrality which is scientifically impossible to substantiate. Sustainability labels containing environmental claims should also be prohibited.

Or. en

Amendment 4

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) In order to improve consumer welfare, the amendments to Annex I to Directive 2005/29/EC should also address the way in which software updates are presented to consumers. The bundling of security updates with other types of updates, such as feature or functionality updates, should be prohibited in order to ensure that consumers are protected from unwanted content when making their purchasing decision. To further strengthen consumer information, consumers should in all cases be informed in a clear and understandable manner whether the update is necessary to keep the product in conformity.

Or. en

Amendment 5

Proposal for a directive Recital 15

Text proposed by the Commission

(15) It should be prohibited to ***omit to inform the consumer that*** a software update, including a security update, will negatively impact the use of goods with digital elements or certain features of those goods, even if the update improves the functioning of other features. ***For example, when inviting consumers to update the operating system on their smartphone, the trader will have to inform the consumer if such an update will negatively impact the functioning of any of the features of the smartphone.***

Amendment

(15) It should be prohibited to ***supply*** a software update, including a security update, ***which*** will negatively impact the use of goods with digital elements or certain features of those goods, even if the update improves the functioning of other features.

Or. en

Amendment 6

**Proposal for a directive
Recital 16**

Text proposed by the Commission

(16) It should also be prohibited to ***omit to inform the consumer about the existence of*** a feature of the good ***introduced to limit*** its durability. For example, such a feature could be software which stops or downgrades the functionality of the good after a particular period of time, or it could be a piece of hardware which is designed to fail after a particular period of time. The prohibition ***of omitting to inform consumers of*** such features of the goods ***complements and*** does not affect the remedies available to consumers when they constitute a lack of conformity under Directive (EU) 2019/771 of the European Parliament and of the Council²⁶. For such a commercial practice to be considered unfair, it should not be necessary to demonstrate that the purpose of the feature is to stimulate the replacement of the respective good. The

Amendment

(16) It should also be prohibited to ***introduce*** a feature of the good ***that limits*** its durability. For example, such a feature could be software which stops or downgrades the functionality of the good after a particular period of time, or it could be a piece of hardware which is designed to fail after a particular period of time. The prohibition ***to introduce*** such features of the goods does not affect the remedies available to consumers when they constitute a lack of conformity under Directive (EU) 2019/771 of the European Parliament and of the Council²⁶. For such a commercial practice to be considered unfair, it should not be necessary to demonstrate that the purpose of the feature is to stimulate the replacement of the respective good. The use of features limiting the durability of the goods should be distinguished from manufacturing

use of features limiting the durability of the goods should be distinguished from manufacturing practices using materials or processes of general low quality resulting in limited durability of the goods. Lack of conformity of a good resulting from the use of low quality materials or processes should continue to be governed by the rules on the conformity of goods set out in Directive (EU) 2019/771.

²⁶ Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28).

practices using materials or processes of general low quality resulting in limited durability of the goods. Lack of conformity of a good resulting from the use of low quality materials or processes should continue to be governed by the rules on the conformity of goods set out in Directive (EU) 2019/771.

²⁶ Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28).

Or. en

Amendment 7

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Similarly, Annex I to Directive 2005/29/EC should also be amended to prohibit ***presenting products as allowing repair when such repair is not possible, as well as omitting to inform consumers that it is not possible to repair goods*** in accordance with legal requirements.

Amendment

(18) Similarly, Annex I to Directive 2005/29/EC should also be amended to prohibit ***marketing a good as reparable where it does not allow repair*** in accordance with legal requirements. ***In addition, Annex I to Directive 2005/29/EC should also be amended to ensure that the consumer is always informed of repair restrictions such as the unavailability of repair services, the unavailability of spare parts or the refusal to repair in the event that the product has been repaired by an individual other than an authorised or licensed repair professional within the distribution network.***

Or. en

Amendment 8

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Another practice associated with early obsolescence which should be prohibited and added to the list in Annex I to Directive 2005/29/EC is ***inducing the consumer into*** replacing the consumables ***of a product*** earlier than would otherwise be necessary for technical reasons. Such practices mislead the consumer into believing that the goods will no longer function unless their consumables are replaced, thus leading them to purchase more consumables than necessary. For example, ***the practice of urging the consumer, via the settings of the*** printer, to replace the printer ink cartridges before they are actually empty in order to stimulate the purchase of additional ink cartridges would be prohibited.

Amendment

(20) Another practice associated with early obsolescence which should be prohibited and added to the list in Annex I to Directive 2005/29/EC is ***marketing goods that require*** replacing the consumables earlier than would otherwise be necessary for technical reasons. Such practices mislead the consumer into believing that the goods will no longer function unless their consumables are replaced, thus leading them to purchase more consumables than necessary. For example, ***marketing a printer that requires consumers*** to replace the printer ink cartridges before they are actually empty in order to stimulate the purchase of additional ink cartridges would be prohibited.

Or. en

Amendment 9

Proposal for a directive Recital 21

Text proposed by the Commission

(21) Annex I to Directive 2005/29/EC should also be amended to prohibit ***omitting to inform the consumer that the good is*** designed ***to limit its*** functionality when using consumables, spare parts or accessories that are not provided by the original producer. For example, the marketing of printers that are designed to limit their functionality when using ink cartridges not provided by the original

Amendment

(21) Annex I to Directive 2005/29/EC should also be amended to prohibit ***marketing goods that are*** designed ***in a way that limits their*** functionality when using consumables, spare parts or accessories that are not provided by the original producer. For example, the marketing of printers that are designed to limit their functionality when using ink cartridges not provided by the original

producer of the printer ***without disclosing this information to the consumer*** would be prohibited. This practice could mislead consumers into purchasing an alternative ink cartridge which cannot be used for that printer, thus leading to unnecessary repair costs, waste streams or additional costs due to the obligation to use the original producer's consumables which the consumer could not foresee at the time of purchase. Similarly, marketing smart devices designed to limit their functionality when using chargers or spare parts that are not provided by the original producer ***without disclosing this information to the consumer*** would be prohibited as well.

producer of the printer would be prohibited. This practice could mislead consumers into purchasing an alternative ink cartridge which cannot be used for that printer, thus leading to unnecessary repair costs, waste streams or additional costs due to the obligation to use the original producer's consumables which the consumer could not foresee at the time of purchase. Similarly, marketing smart devices designed to limit their functionality when using chargers or spare parts that are not provided by the original producer would be prohibited as well.

Or. en

Amendment 10

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) A good indicator of a good's durability is the producer's commercial guarantee of durability within the meaning of Article 17 of Directive (EU) 2019/771. Therefore, Directive 2011/83/EU should be amended to specifically require traders ***selling goods to inform consumers about the existence of the producer's commercial guarantee of durability for all types of goods, where the producer makes this information*** available.

Amendment

(23) A good indicator of a good's durability is ***the duration of the legal guarantee of conformity, including the voluntary extensions provided by the trader or the producer without additional cost to the consumer, as well as*** the producer's commercial guarantee of durability within the meaning of Article 17 of Directive (EU) 2019/771 ***if provided without additional cost***. Therefore, Directive 2011/83/EU should be amended to specifically require traders ***to provide, before the conclusion of the contract, a guaranteed lifespan label. Such a label should, as a minimum, display the length of the legal guarantee of conformity during which the remedies laid down in Article 13 of Directive (EU) 2019/771 will be available to the consumer, as well as any voluntary extension of the guarantee***

provided without additional cost.

Or. en

Amendment 11

Proposal for a directive Recital 24

Text proposed by the Commission

Amendment

(24) The problem of limited durability contrary to consumer expectations is most relevant for energy-using goods, which are goods that function from an external energy source. Consumers are also most interested in receiving information about the expected durability of this category of goods. For these reasons, only for this category of goods, consumers should be made aware that the information about the existence of a producer's commercial guarantee of durability of more than two years has not been provided by the producer. *deleted*

Or. en

Amendment 12

Proposal for a directive Recital 25

Text proposed by the Commission

Amendment

(25) Goods containing energy-using components, where those components are mere accessories and do not contribute to the main function of those goods, such as decorative lighting for clothing or footwear or electric light for a bicycle, should not be classified as energy-using goods. *deleted*

Or. en

Amendment 13

Proposal for a directive Recital 26

Text proposed by the Commission

(26) In view of the established minimum duration of two years of the seller's liability for lack of conformity in accordance with Directive (EU) 2019/771 and the fact that many product failures occur after two years, the trader's obligation to inform consumers about the existence and duration of the producer's commercial guarantee of durability should apply to guarantees that are of more than two years.

Amendment

deleted

Or. en

Amendment 14

Proposal for a directive Recital 27

Text proposed by the Commission

(27) In order to make it easier for consumers to take an informed transactional decision when comparing goods before concluding a contract, traders should *inform consumers about the existence and duration, of the producer's commercial guarantee of durability* for the entire good and not for specific components of the good.

Amendment

(27) In order to make it easier for consumers to take an informed transactional decision when comparing goods before concluding a contract, traders *and producers* should *include, on the guaranteed lifespan label, information on the period of the voluntary extension to the legal guarantee, only where it applies* for the entire good and not for specific components of the good.

Or. en

Amendment 15

Proposal for a directive Recital 28

Text proposed by the Commission

Amendment

(28) The producer and the seller should remain free to offer other types of commercial guarantees and after-sales services of any duration. However, the information provided to the consumer about such other commercial guarantees or services should not confuse the consumer with regard to the existence and duration of the producer's commercial guarantee of durability that covers the entire good and has a duration of more than two years. **deleted**

Or. en

Amendment 16

Proposal for a directive Recital 29

Text proposed by the Commission

Amendment

(29) To promote competition between producers as regards the durability of goods with digital elements the traders selling those goods should inform consumers about the minimum period of time during which the producer *commits to* provide software updates for such goods. *However, to avoid overloading consumers with information, such information should only be provided when this period is longer than the period of the producer's commercial guarantee of durability, as that guarantee entails the provision of updates, including security updates, that are necessary to maintain the required functions and performance of goods with digital elements. Furthermore, information about the producer's*

(29) To promote competition between producers as regards the durability of goods with digital elements the traders selling those goods should inform consumers about the minimum period of time during which the producer *will* provide software updates for such goods *including, as a minimum, the mandatory period for which the updates* should be provided *in accordance with Union law.*

commitment to provide software updates is relevant only where the sales contract regarding goods with digital elements provides for a single act of supply of the digital content or digital service in respect of which Article 7(3), point (a), of Directive (EU) 2019/771 applies. In contrast, there should be no new obligation to provide that information where the sales contract provides for a continuous supply of the digital content or digital service over a period of time, since for those contracts Article 7(3), point (b), of Directive (EU) 2019/771 specifies, by reference to Article 10 (2) or (5), the period of time during which the seller is to ensure that the consumer is informed of and supplied with updates.

Or. en

Amendment 17

Proposal for a directive Recital 30

Text proposed by the Commission

(30) Likewise, traders offering digital content and digital services should also inform consumers about the minimum period during which the provider of the digital content or digital service, where the provider is different from the trader, **commits to** provide software updates, including security updates, necessary to keep the digital content and digital services in conformity. Information **about the provider's commitment to provide software updates is relevant only where the contract provides for a single act of supply or a series of individual acts of supply in respect of which Article 8(2), point (b), of Directive 2019/770 applies. In contrast, there should be no new obligation to provide that information where the contract provides for a**

Amendment

(30) Likewise, traders offering digital content and digital services should also inform consumers about the minimum period during which the provider of the digital content or digital service, where the provider is different from the trader, **will** provide software updates, including security updates, necessary to keep the digital content and digital services in conformity. **This information shall include, as a minimum, the mandatory period for which the updates should be provided in accordance with Union law. The provider will provide this information to the trader in all cases.**

continuous supply over a period of time, since for these contracts Article 8(2), point (a) of Directive (EU) 2019/770 specifies the period of time during which the trader is to ensure that the consumer is informed of and supplied with updates.

Or. en

Amendment 18

Proposal for a directive Recital 31

Text proposed by the Commission

(31) To allow consumers to make an informed transactional decision and choose goods that are easier to repair, traders should provide, before the conclusion of the contract, for all types of goods, where applicable, the reparability score of the good as provided by the producer in accordance with Union law.

Amendment

(31) To allow consumers to make an informed transactional decision and choose goods that are easier to repair, traders should provide, before the conclusion of the contract, for all types of goods, where applicable, the reparability score of the good as provided by the producer in accordance with Union law. ***Until such a reparability score is established under Union law, national law providing for reparability scores applies.***

Or. en

Amendment 19

Proposal for a directive Recital 32

Text proposed by the Commission

(32) Pursuant to Article 5(1), point (e), and Article 6(1), point (m), of Directive 2011/83/EU traders are obliged to provide the consumer before the consumer is bound by the contract with information on the existence and the conditions of after-sales services, including repair services, ***where such services are provided.*** In addition, in

Amendment

(32) Pursuant to Article 5(1), point (e), and Article 6(1), point (m), of Directive 2011/83/EU traders are obliged to provide the consumer before the consumer is bound by the contract with information on the existence and the conditions of after-sales services, including repair services. In addition, in order to ensure that consumers

order to ensure that consumers are well informed about the reparability of the goods they purchase, where a reparability score is not established ***in accordance with Union law***, traders should provide, for all types of goods, other relevant repair information ***that is made available by the producer***, such as information about the availability of spare parts, ***and*** a user and repair manual.

are well informed about the reparability of the goods they purchase, where a reparability score is not established, traders should provide, for all types of goods, other relevant repair information, such as information about the availability ***and affordability*** of ***the*** spare parts ***necessary to repair a good, including the length of the period during which spare parts and accessories are available, the procedure for ordering them, the availability of a*** user and repair manual ***as well as repair tools and services. This information should be provided to the respective traders by the producers of the goods.***

Or. en

Amendment 20

Proposal for a directive Recital 33

Text proposed by the Commission

(33) ***Traders should provide consumers with information about the existence and duration of the producer's commercial guarantee of durability, the minimum period for updates and the repair information other than the reparability score, where the producer or provider of the digital content or digital service, when different from the trader, makes the relevant information available.*** In particular, as regards goods, the trader should convey to consumers ***the*** information ***that the producer has provided to the trader or has otherwise intended to make readily available to the consumer*** before the conclusion of the contract, by indicating it on the product itself, its packaging or tags and labels that the consumer would normally consult before concluding the contract. The trader should not be required to actively search for ***such information*** from the producer,

Amendment

(33) In particular, as regards goods, the trader should convey to consumers ***this*** information before the conclusion of the contract, by indicating it on the product itself, its packaging or tags and labels that the consumer would normally consult before concluding the contract. The trader should not be required to actively search for ***commitments*** from the producer ***that go beyond what is required by Union law***, for example, on the product-specific websites.

for example, on the product-specific websites.

Or. en

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2005/29/EC

Article 2 – paragraph 1 – point r a (new)

Text proposed by the Commission

Amendment

(ra) ‘pre-approval of sustainability labels or sustainability information tools’ means an ex-ante conformity assessment to be performed by a competent national authority;

Or. en

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2005/29/EC

Article 2 – paragraph 1 – point s

Text proposed by the Commission

Amendment

(s) ‘certification scheme’ means a third-party verification scheme that is open under transparent, fair and non-discriminatory terms to all traders willing and able to comply with the scheme’s requirements, which certifies that a product complies with certain requirements, and for which the monitoring of compliance is objective, based on international, Union or national standards and procedures and carried out by a party independent from both the scheme owner and the trader;

(s) ‘certification scheme’ means a third-party verification scheme that is open under transparent, fair and non-discriminatory terms to all traders willing and able to comply with the scheme’s requirements, which certifies that a product complies with certain **publicly available and independently developed** requirements **reflecting a significant improvement on the otherwise applicable product law**, and for which the monitoring of compliance is objective, based on international, Union or national standards and procedures and carried out by a party independent from

both the scheme owner and the trader;

Or. en

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2005/29/EC

Article 2 – paragraph 1 – point w a (new)

Text proposed by the Commission

Amendment

(wa) ‘security update’ means security update as defined in point 35 of the Annex to Commission Regulation (EU).../... [ecodesign implementing Regulation for tablets and smartphones];

Or. en

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2005/29/EC

Article 2 – paragraph 1 – point w b (new)

Text proposed by the Commission

Amendment

(wb) ‘functionality update’ means a security update as defined in point (36) of Annex to Commission Regulation (EU).../... [ecodesign implementing Regulation for tablets and smartphones];

Or. en

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2005/29/EC
Article 2 – paragraph 1 – point y a (new)

Text proposed by the Commission

Amendment

(ya) ‘carbon offsetting’ means financially participating in an action or project in order to compensate for the purchaser’s own carbon dioxide emissions.

Or. en

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point a

Directive 2005/29/EC

Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the main characteristics of the product, such as its availability, benefits, risks, execution, composition, environmental or social impact, accessories, durability, reparability, after-sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product.;

(b) the main characteristics of the product, such as its availability, benefits, risks, execution, composition, environmental or social impact, accessories, durability, reparability, **reusability, recyclability**, after-sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product.;

Or. en

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point b

Directive 2005/29/EC

Article 6 – paragraph 2 – point d

Text proposed by the Commission

(d) making an environmental claim related to future environmental performance without clear, objective and verifiable commitments **and** targets and without an independent monitoring system;

Amendment

(d) making an environmental claim related to future environmental performance ***solely based on carbon offsetting schemes, or*** without clear, objective and verifiable ***reduction*** commitments, ***a detailed and realistic implementation plan with reference to budgetary and technological commitments, without feasible*** targets and without an independent monitoring system;

Or. en

Justification

Carbon offsetting schemes are currently unregulated and consumers have no means to verify whether they are really robust and reliable. Claims based on such schemes can also mislead the consumer about the product in question. Therefore, claims on future environmental performance based solely on such claims should be banned. Other claims related to future performance must be sufficiently substantiated.

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2005/29/EC

Article 7 – paragraph 7

Text proposed by the Commission

7. Where a trader provides a service which compares products, including through a sustainability information tool, information about the method of comparison, the products which are the object of comparison and the suppliers of those products, as well as the measures in place to keep that information up to date, shall be regarded as material.;

Amendment

7. Where a trader provides a service which compares products, including through a sustainability information tool, information about ***whether that tool has been pre-approved in accordance with minimum requirements, the*** method of comparison, the products which are the object of comparison and the suppliers of those products, as well as the measures in place to keep that information up to date, shall be regarded as material.;

Or. en

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2005/29/EC

Article 7 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The Commission is empowered to adopt delegated acts in accordance with Article 16 a to supplement this Directive by establishing minimum requirements in relation to sustainability labels and sustainability information tools. When adopting the delegated act, the Commission shall take into account publicly available award criteria, developed in an independent process and going beyond what is required by Union law with an impartial control procedure, including third party verification and transparency of the scheme owner. The Commission shall ensure accessibility to all market players, procedural transparency for consumers, scientific robustness and stakeholder relevance, and put in place compliance and dispute resolution mechanisms as well as a periodic revision of the award criteria. If a sustainability label or a sustainability information tool is focused on one particular environmental aspect, this shall be clearly and prominently communicated to consumers. For the sake of transparency, all pre-approved sustainability labels and sustainability information tools shall be published in a publicly available online register, which is to be updated regularly by the competent national authorities.

Or. en

Amendment 30

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2005/29/EC

Article 7 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. The Commission shall adopt an implementing act specifying the details of the approval procedure for sustainability labels and sustainability information tools referred to in paragraph 8.

This implementing act shall be adopted in accordance with the advisory procedure referred to in Article 16b.

Or. en

Amendment 31

Proposal for a directive

Article 1 – paragraph 1 – point 3 a (new)

Directive 2005/29/EC

Article 16 a (new)

Text proposed by the Commission

Amendment

(3a) The following Article 16a is inserted:

‘Article 16a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**
- 2. The power to adopt delegated acts referred to in Article 7(8) shall be conferred on the Commission for a period of 6 years from [one month after entry into force of this act].**
- 3. The delegation of power referred to in Article 7(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put**

an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State acting in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 7(8) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

Or. en

Amendment 32

Proposal for a directive

Article 1 – paragraph 1 – point 3 b (new)

Directive 2005/29/EC

Article 16 b (new)

Text proposed by the Commission

Amendment

(3b) The following Article 16b is inserted:

‘Article 16b

Committee procedure

- 1. The Commission shall be assisted by a Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.***
- 2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.’***

Or. en

Amendment 33

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point a

Directive 2011/83/EU

Article 2 – paragraph 1 – point 3a

Text proposed by the Commission

Amendment

(3a) ‘energy-using good’ means any good that depends on energy input (electricity, fossil fuels and renewable energy sources) to work as intended;;

deleted

Or. en

Amendment 34

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point b

Directive 2011/83/EU

Article 2 – paragraph 1 – point 14e

Text proposed by the Commission

Amendment

(14e) ‘software update’ means a free update, **including** a security update, that is necessary to keep goods with digital elements, digital content and digital services in conformity in accordance with Directives (EU) 2019/770 and (EU)

(14e) ‘software update’ means a free update, **either** a security **update or any other functionality or feature** update, that is necessary to keep goods with digital elements, digital content and digital services in conformity in accordance with Directives (EU) 2019/770 and (EU)

Amendment 35**Proposal for a directive****Article 2 – paragraph 1 – point 2 – point -a (new)**

Directive 2011/83/EU

Article 5 – paragraph 1 – point e

*Text proposed by the Commission**Amendment*

(-a) In Article 5, point (e) of paragraph 1 is deleted.

Amendment 36**Proposal for a directive****Article 2 – paragraph 1 – point 2 – point a**

Directive 2011/83/EU

Article 5 – paragraph 1 – point ea

*Text proposed by the Commission**Amendment*

(ea) for all goods, where the producer makes it available, information that the goods benefit from a commercial guarantee of durability and its duration in units of time, where that guarantee covers the entire good and has a duration of more than two years;

(ea) a label indicating the guaranteed lifespan of the goods, the digital content and the digital services, including, as a minimum, the duration of the legal guarantee of conformity, and where applicable, the existence and the conditions of after-sales services and commercial guarantees;

Justification

The commercial guarantee is not sufficient to properly inform consumers about the durability of products as it is voluntary and under unregulated conditions left to the discretion of the producer. Moreover, 2015 European Commission study on legal and commercial guarantees found that only 41 % of respondents knew the length of the legal guarantee period was 2 years. With this amendment, the Rapporteur wants to align durability information with

guarantee under which consumer has rights without additional cost. By guaranteed lifespan label the consumer will be informed both on durability and consumer's rights. It will also encourage competition among producers to expand the duration of the minimum legal guarantee of conformity.

Amendment 37

Proposal for a directive

Article 2 – paragraph 1 – point 2 – point a

Directive 2011/83/EU

Article 5 – paragraph 1 – point eb

Text proposed by the Commission

Amendment

(eb) for energy-using goods, where the producer does not make available the information referred to in point (ea), information that the producer has not provided information on the existence of a commercial guarantee of durability of more than two years. This information shall be at least as prominent as any other information about the existence and the conditions of after-sales services and commercial guarantees provided in accordance with point (e); **deleted**

Or. en

Amendment 38

Proposal for a directive

Article 2 – paragraph 1 – point 2 – point a

Directive 2011/83/EU

Article 5 – paragraph 1 – point ec

Text proposed by the Commission

Amendment

(ec) for goods with digital elements, where the producer makes such information available, the minimum period in units of time during which the producer provides software updates, unless the contract provides for a continuous supply of the digital content or digital **(ec) for goods with digital elements, the minimum period from the time of purchase in units of time during which the producer provides software updates, including, as a minimum, the mandatory period for which the updates shall be provided in accordance with the**

service over a period of time. Where information about the existence of a commercial guarantee of durability is provided in accordance with point (ea), the information on the updates shall be provided if those updates are supplied for a longer period than the commercial guarantee of durability;

applicable Union law;

Or. en

Amendment 39

Proposal for a directive

Article 2 – paragraph 1 – point 2 – point a

Directive 2011/83/EU

Article 5 – paragraph 1 – point ed

Text proposed by the Commission

(ed) for digital content and digital services, where their provider is different from the trader ***and makes such information available***, the minimum period in units of time during which the provider provides software updates, ***unless the contract provides for a continuous supply of the digital content or digital service over a period of time***;

Amendment

(ed) for digital content and digital services, where their provider is different from the trader, the minimum period in units of time during which the provider provides software updates ***including, as a minimum, the mandatory period for which the updates shall be provided in accordance with the Union law***;

Or. en

Amendment 40

Proposal for a directive

Article 2 – paragraph 1 – point 2 – point b

Directive 2011/83/EU

Article 5 – paragraph 1 – point j

Text proposed by the Commission

(j) when point (i) is not applicable, information ***made available*** by the producer about the availability ***of*** spare parts, including the procedure of ordering

Amendment

(j) when point (i) is not applicable, information ***provided*** by the producer about the availability ***and affordability of the*** spare parts ***necessary to repair a***

them, and about the availability of a user and repair manual.;

product, including *the length of the period during which spare parts and accessories are available*, the procedure of ordering them, and about the availability of a user and repair manual *and repair tools and services*;

Or. en

Amendment 41

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point a

Directive 2011/83/EU

Article 6 – paragraph 1 – point ma

Text proposed by the Commission

(ma) *for all types of goods, where the producer makes it available, information that the goods benefit from a commercial guarantee of durability and its duration in units of time, where that guarantee covers the entire good and has a duration of more than two years;*

Amendment

(ma) *the guaranteed lifespan label expressed in units of time for the goods, digital content and digital services, including, as a minimum, the duration of the legal guarantee of conformity;*

Or. en

Amendment 42

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point a

Directive 2011/83/EU

Article 6 – paragraph 1 – point mb

Text proposed by the Commission

(mb) *for energy-using goods, where the producer does not make available information referred to in point (ma), information that the producer has not provided information on the existence of a commercial guarantee of durability of more than two years. This information shall be at least as prominent as any other*

Amendment

deleted

information about the existence and the conditions of after-sales services and commercial guarantees provided in accordance with point (m);

Or. en

Amendment 43

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point a

Directive 2011/83/EU

Article 6 – paragraph 1 – point mc

Text proposed by the Commission

(mc) for goods with digital elements, ***where the producer makes such information available***, the minimum period in units of time during which the producer provides software updates, ***unless the contract provides for a continuous supply of the digital content or digital service over a period of time. Where information about the existence of a commercial guarantee of durability is provided in accordance with point (ma), the information on*** the updates shall be provided ***if those updates are supplied for a longer period than the commercial guarantee of durability***;

Amendment

(mc) for goods with digital elements, the minimum period ***from the time of purchase*** in units of time during which the producer provides software updates, ***including, as a minimum, the mandatory period for which*** the updates shall be provided ***in accordance with Union law***;

Or. en

Amendment 44

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point a

Directive 2011/83/EU

Article 6 – paragraph 1 – point md

Text proposed by the Commission

(md) for digital content and digital services, where their provider is different

Amendment

(md) for digital content and digital services, where their provider is different

from the trader ***and makes such information available***, the minimum period in units of time during which the provider provides software updates, ***unless the contract provides for a continuous supply of the digital content or digital service over a period of time***;

from the trader, the minimum period in units of time during which the provider provides software updates, ***including, as a minimum, the mandatory period for which the updates shall be provided in accordance with Union law***;

Or. en

Amendment 45

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point b

Directive 2011/83/EU

Article 6 – paragraph 1 – point v

Text proposed by the Commission

(v) when point (u) is not applicable, information ***made available*** by the producer about the availability of spare parts, including the procedure of ordering them, and about the availability of a user and repair manual.;

Amendment

(v) when point (u) is not applicable, information ***provided*** by the producer about the availability ***and affordability*** of ***the*** spare parts ***necessary to repair goods***, including ***the length of the period during which spare parts and accessories are available***, the procedure of ordering them, and about the availability of a user and repair manual ***and repair tools and services***.

Or. en

Amendment 46

Proposal for a directive

Annex I – paragraph 1 – point 1

Directive 2005/29/EC

Annex I – point 2a

Text proposed by the Commission

2a. Displaying a sustainability label which ***is not based on a certification scheme or not established by public authorities***.;

Amendment

2a. Displaying a sustainability label ***or using sustainability information tools*** which ***were not pre-approved by a national competent authority in***

accordance with the minimum requirements for sustainability labels and sustainability information tools laid down by the Commission in a delegated act.

Or. en

Justification

In order to effectively remove all misleading, unclear and unsubstantiated labels and sustainability information tools used on the EU market and at the same significantly increase consumers' confidence and trust in these labels, a requirement for a pre-approval of sustainability labels and sustainability information tools shall be introduced. According to the Impact Assessment such scheme would have a significant positive impact not only on consumers but also on business. Such approach would increase legal certainty and enable more efficient market surveillance.

Amendment 47

Proposal for a directive
Annex I – paragraph 1 – point 2
Directive 2005/29/EC
Annex I – point 4b

Text proposed by the Commission

4b. Making an environmental claim about the entire product when it actually concerns only a certain aspect of the product;

Amendment

4b. Making an environmental claim about the entire product ***or the trader's business*** when it actually concerns only a certain aspect of the product ***or of the trader's business***;

Or. en

Amendment 48

Proposal for a directive
Annex I – paragraph 1 – point 2
Directive 2005/29/EC
Annex I – point 4c (new)

Text proposed by the Commission

Amendment

4c. Making an environmental claim which cannot be substantiated in

accordance with legal requirements;

Or. en

Amendment 49

Proposal for a directive

Annex I – paragraph 1 – point 2

Directive 2005/29/EC

Annex I – point 4 d (new)

Text proposed by the Commission

Amendment

4d. Claiming that a good has a neutral or positive greenhouse gas emissions' impact on the environment;

Or. en

Justification

Carbon neutral claims are highly misleading to consumers as they imply neutrality and no impact of goods on the environment which is impossible to achieve from the scientific point of view. They are often being justified by the company's involvement in carbon offsetting projects, which are currently unregulated and about which consumers are not sufficiently informed about and have no means to verify whether they are really robust and reliable.

Amendment 50

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23d

Text proposed by the Commission

Amendment

23d. Omitting to inform the consumer that a software update will negatively impact the use of goods with digital elements or certain features of those goods even if the software update improves the functioning of other features.

23d. Bundling security updates with other software updates.

Or. en

Justification

Security updates are crucial to keep consumers safe, they don't degrade the functionality or performance of devices and are subject to cybersecurity guidelines or legislative measures. On the other hand, functionality and other updates can negatively impact the functionality of the device. Therefore, consumer should always be able to download them separately from other types of updates, which they might wish to abstain from.

Amendment 51

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23d a (new)

Text proposed by the Commission

Amendment

23da. Supplying a software update which will negatively impact the use of goods with digital elements or certain features of those goods even if the software update improves the functioning of other features.

Or. en

Amendment 52

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23d b (new)

Text proposed by the Commission

Amendment

23db. Omitting to inform the consumer in a clear and understandable manner that the update is not necessary to keep the product in conformity.

Or. en

Amendment 53

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23e

Text proposed by the Commission

23e. ***Omitting to inform the consumer about the existence of a feature of a good introduced to limit its*** durability.

Amendment

23e. ***Introducing*** a feature ***that limits the*** durability ***of a good***.

Or. en

Amendment 54

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23 e a (new)

Text proposed by the Commission

Amendment

23ea. Engaging in practices that lead to shortening a product's lifespan and stimulate the purchase of a new product.

Or. en

Amendment 55

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – 23e b (new)

Text proposed by the Commission

Amendment

23eb. Marketing a good without fixing, within a reasonable time, a design issue that leads to an early failure of this good.

Or. en

Justification

Experience has shown that producers and traders are slow to react on complaint against early obsolescence. To ensure highest level of consumer protection, it is crucial that producers and traders discontinue to sell products with feature that limits their durability as soon as possible.

Amendment 56

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23g

Text proposed by the Commission

23g. ***Presenting goods as allowing repair when they do not or omitting to inform the consumer that goods do not allow repair in accordance with legal requirements.***

Amendment

23g. ***Marketing a good which does not allow repair in accordance with legal requirements.***

Or. en

Amendment 57

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC

Annex I – point 23g a (new)

Text proposed by the Commission

Amendment

23ga. Omitting to inform the consumer about the unavailability of spare parts and other repair restrictions.

Or. en

Amendment 58

Proposal for a directive

Annex I – paragraph 1 – point 4

Directive 2005/29/EC
Annex I – point 23h

Text proposed by the Commission

23h. ***Inducing the consumer into*** replacing the consumables ***of a good*** earlier than for technical reasons ***is necessary***.

Amendment

23h. ***Marketing a good that requires*** replacing the consumables earlier than ***is necessary*** for technical reasons.

Or. en

Amendment 59

Proposal for a directive
Annex I – paragraph 1 – point 4
Directive 2005/29/EC
Annex I – point 23i

Text proposed by the Commission

23i. ***Omitting to inform that*** a good is designed to limit its functionality when using consumables, spare parts or accessories that are not provided by the original producer..

Amendment

23i. ***Marketing*** a good ***that*** is designed to limit its functionality when using consumables, spare parts or accessories that are not provided by the original producer.

Or. en

Amendment 60

Proposal for a directive
Annex I – paragraph 1 – point 4
Directive 2005/29/EC
Annex I – point 23i a (new)

Text proposed by the Commission

Amendment

23ia. Marketing a good which is not compliant with the requirements under Directive 2009/125/EC of the European Parliament and of the Council^{1a}.

^{1a} ***Directive 2009/125/EC of the European***

*Parliament and of the Council of 21
October 2009 establishing a framework
for the setting of ecodesign requirements
for energy-related products (OJ L 285
31.10.2009, p. 10).*

Or. en

EXPLANATORY STATEMENT

Studies have demonstrated that European consumers take the environmental impact into account when purchasing a product. They are ready to pay more for more sustainable products. Market operators reflect such trends. Consumers are though often misled by different claims related to environmental performance of goods and services. The Rapporteur therefore welcomes the European Commission proposal to regulate the market to ensure true and easily accessible sustainability information.

The Rapporteur proposes though measures to further strengthen the proposal. The Rapporteur suggest to better regulate sustainability labels and sustainability information tools, as well as environmental claims. The Rapporteur introduces an obligation for pre-approval of sustainability labels and sustainability information tools by a competent national authority in line with a framework to be set by the Commission through implementing and delegated acts.

On the environmental claims, the Rapporteur proposes to ban future environmental claims based solely on carbon offsetting schemes, since such schemes are unregulated and cannot be verified by consumers. Other future environmental claims must be adequately substantiated by a feasible implementation plan and verifiable targets, and backed by sufficient budget and resources. Those plans must be publicly available, regularly updated and monitored by an independent body. The Rapporteur considers that claims related to future environmental performance should not be used on the product level as they can mislead the consumer on the current environmental performance of the products in question. Additionally, the Rapporteur sets a ban on claims that state that a good has a neutral or positive greenhouse gas emissions' impact on the environment as that is impossible to achieve from the scientific point of view.

Furthermore, more than 80 percent¹ of EU consumers are interested in the durability of products. They experience though difficulties in finding relevant information. The Rapporteur therefore proposes to introduce a guaranteed lifespan label that reflects both, the minimum period the consumer is covered by a free legal guarantee of two years as well as an indication of the lifespan of the products. The producers and traders can prolong this guarantee beyond two years, but they can indicate it on a label only if it is without additional cost for the consumer and if it applies to the whole product.

To achieve a truly sustainable economy, it is crucial to encourage the repair of products. Consumers should therefore be informed before the purchase of a product on the availability and affordability of spare parts necessary to repair it, including the length of the period during which spare parts and accessories are available, the procedure of ordering them, about the availability of a user and repair manual and repair tools and services. The Rapporteur suggest to ban the marketing of goods which do not allow repair in accordance with legal requirements.

The Rapporteur believes that a complete ban on all forms of premature obsolescence should be imposed, ranging from software features that limit the durability of products and stimulate the purchase of a new product to hardware features introduced with a similar purpose.

¹ European Commission, 2018. Behavioural Study on Consumers' Engagement in the Circular Economy. Available at https://ec.europa.eu/info/sites/info/files/ec_circular_economy_final_report_0.pdf

In order to make it easier for consumers to take informed decisions about software updates and contribute to the durability of their products, the Rapporteur proposes to unbundle security updates that are necessary for the functioning of the device from other types of updates. All updates that negatively impact the device should be banned. Furthermore, consumers should be informed in a clear and understandable manner if an update is necessary to keep the product in conformity.

ANNEX: List of entities or persons from whom the rapporteur has received input

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the [draft report / report, until the adoption thereof in committee]:

Entity and/or person
The European Consumer Organization - BEUC
Back Market
Inditex
e-bay
Swappie
ClientEarth
VF Europe
European Advertising Standards Alliance
European Association of Communications Agencies - EACA
Vinted
Zalando
Booking.com
Carbon Market Watch , ClientEarth AISBL , Environmental Coalition on Standards , European Environmental Bureau , Right to repair campaign
Avery Dennison
HDE , BVLH , Markant , Metro AG , REWE Group , Schwarz Gruppe
Etsy
Foodwatch
Forest Stewardship Council
AIM - European Brands Association
APPLiA (Home Appliance Europe)
European Federation of Jewellery
Privacy International