

- EuroCommerce agrees with the view that after 20 years of consumer protection legislation has brought benefit to consumers.
- However, the minimum approach so far has created the condition for the setting up of legal barriers.
- The mission of the Commission at this stage should be to fully harmonise those parts of the Acquis, the lack of harmonisation of which or the minimum harmonisation of which really have created a consumer detriment. As the Commission, EuroCommerce is of the opinion that European consumers should benefit from the same level of protection
- However, the level designed should be practical and not a deterrent to business from carrying out cross border activities.
- Time has come to agree on a horizontal harmonisation instrument which will create the condition to get rid of the discrepancies between national legislations.
- The way forward: full targeted harmonisation.
 - A number of definitions,
 - Cooling off period should also fall under the full harmonisation approach,
 - Full harmonisation as well of the way the right of the withdrawal should be exercised
 - Definition of delivery should be fully harmonised but applicable if not otherwise stipulated in the contract
- However, these are just peripheral matters. There are a number of questions which must be answered to allow both businesses and consumers to determine their positions with regard to the envisaged reform.
- In a recent breakfast event organised by SME Union on this topic, Commissioner Kuneva repeated that targeted full harmonisation was the option. However, she also stated that there will be certain aspects that will be harmonised following a minimum based approach.
 - 1st question: if the Commission really believes that full targeted harmonisation is the way forward, it should not be up to the stakeholders to say what should be fully harmonised. On the contrary, if the Commission considers that certain aspects should not be fully harmonised then they should tell us which aspects should fall out of the full harmonisation process, the

reasons for this exclusion or for the maintaining of a minimum based approach.

- 2nd question: once it will have been decided what should be left out of the full harmonisation process, how does the Commission expect the system will work in practice? What would be the legal obligations bearing on companies and consumer with respect to those obligations which will not have been fully harmonised? Which legislation should apply? What would be the role of the mutual recognition principle?

- 3rd question: the way in which those aspects are left outside the full harmonisation process is crucial under the perspective of legal certainty. The European Parliament has given some indications on the way forward by proposing the inclusion in a text of an Internal Market clause. It is quite surprising to notice that the document of the Commission summarising the contributions does not refer anywhere to the Internal market clause.

Conclusion:

To Legislate at European level is always a hard task; not only for the Institutions but also for business representatives. There is a clear distinction between what we (as stakeholders or Institutions) want and what we can do.

I hope that the Commission will be able to stick to its commitments to create a better environment both for consumers and companies without losing from sight that companies and consumers are not in opposite camps.