



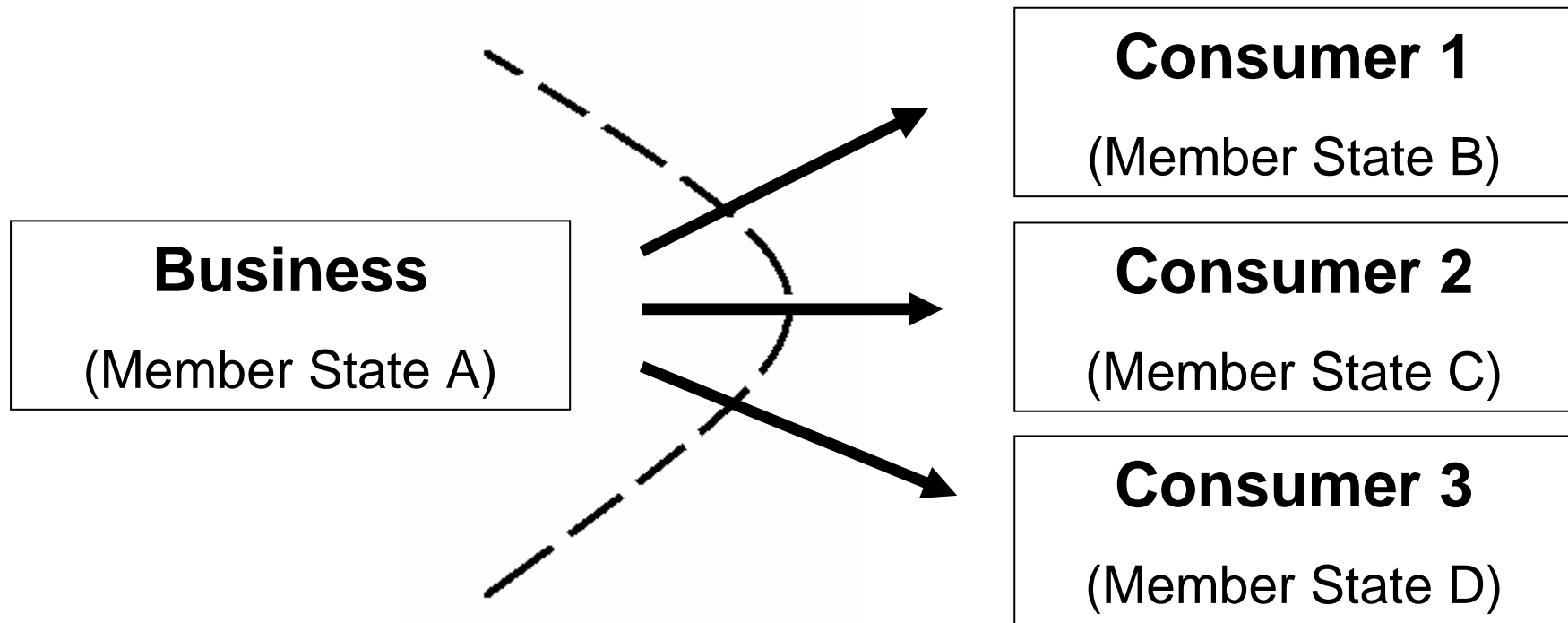
# **Need for Action in EC Consumer Law - a short case study**

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## Example: E-Shop Selling Goods





## Framework and Core Problem: Applicable Law

### **Conflict-of-law rules**

- Rome I Convention
- [Future] Rome I Regulation
- Rome II Regulation
- Specific Provisions in Directives



### **Applicable Law**

Law of the consumer's country  
(often)

### **Jurisdiction**

- Brussels I Regulation




### **Forum**

Courts in the consumer's  
country



## Elements of an E-Shop (choice):

- Identity and address of the business
- Terms of the contract, standard terms
- **Right to withdraw** 
- Technical steps for conclusion of contract
- Main characteristics of the goods
- Price, including delivery charges, taxes etc.
- Available redress procedures
- Input error correction device

### **Enormous number or variations in Member State laws, e.g.**

- Length and beginning of withdrawal period
- Modalities of exercise
- Effects of withdrawal
- Wording / form / language of information

For details see Schulte-Nölke et al., EC Consumer Law Compendium (2007) pp. 528 ss., 698 ss.  
([http://ec.europa.eu/consumers/cons\\_int/safe\\_shop/acquis/comp\\_analysis\\_en.pdf](http://ec.europa.eu/consumers/cons_int/safe_shop/acquis/comp_analysis_en.pdf)).



## **Risks and Possible Strategies**

- Risk of sanctions for unlawful E-Shop
- Litigation or administrative proceedings under foreign jurisdiction
- Costly need to design individual information for each Member State
- Barriers easier to overcome for big businesses than for SME
- Hesitation to target consumers in other Member States
- Refusal of orders from foreign consumers



## **Proposed Solution: (Full) Harmonisation of Information Duties on Right to Withdraw**

- Requires also harmonisation of rules on right to withdraw
- High level of consumer protection  
(on the basis of Member States' laws)

### **Alternative Options:**

- No action (“race-to-the-top” effect?)
- Law of the country of the business applicable (principle of origin)
- Optional instrument (“Blue Button”)



## **Improving EC Consumer Contract Law**

(not only with regard to the information duties on right to withdraw)

### **Information Basis**

Consumer Law Compendium

Common Frame of Reference

### **Steps**

Short-term: Revision of Consumer Acquis

Long-term: Optional Instrument (“Blue Button”)



## Long-Term Perspective: The Blue Button

