



EUROPEAN COMMISSION

Brussels, 11.6.2018
C(2018) 3539 final

Dear Presidents,

The Commission would like to thank the Houses of the Oireachtas for their Opinion on the amended proposal for a Directive on certain aspects concerning contracts for the sales of goods {COM(2017) 637 final}.

This proposal – together with the proposal for a Directive on certain aspects concerning contracts for the supply of digital content {COM(2015) 634 final} – forms part of the Digital Single Market Strategy which is one of the Commission's key priorities. The two proposals are significant elements of a broader package of ambitious measures and aim to contribute to the faster growth of the Digital Single Market by eliminating contract law related barriers and providing clear uniform rules for businesses and consumers alike.

The Commission is pleased that the Houses of the Oireachtas recognise that the amended proposal for a Directive on certain aspects concerning contracts for the sales of goods addresses the problems linked to the possibility of a dual regime as regards face-to-face and distance sales of goods. Following up on its own commitment, the Commission has taken all necessary steps to ensure coherence of contract law rules on consumer sales regardless of the sales channel.

In respect of the Houses of the Oireachtas' concerns about the level of consumer protection, notably as regards the legal guarantee period and the consumer remedies, as well as the recommendations to introduce a minimum harmonisation approach to avoid reducing the existing level of consumer protection in Member States, the Commission would like to make the following remarks:

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The Commission believes that targeted full harmonisation of the key consumer contract law rules is the appropriate solution for achieving the objectives of the Digital Single Market Strategy, to the benefit of consumers and businesses. Being able to rely on a single set of rules throughout the Union would decrease costs for business and offer consumers a wider choice of products at more competitive prices. Minimum harmonisation would fail to address the obstacles to cross-border trade in the Union as identified by stakeholders, and would maintain or increase the differences in national contract law rules that create legal uncertainty and fragmentation.

The Commission takes note of the Houses of the Oireachtas' concern that the two-year legal guarantee period included in the proposal is shorter than the six-year limitation period provided for by Irish legislation. However, the Commission has opted for a solution that has been implemented by the vast majority of Member States and is confirmed by recent evidence. Indeed, the recent study underpinning the Fitness Check of European Union consumer and marketing law confirmed that in the vast majority (96 %) of recent problems with defective goods, the consumers discovered the defect during the first 2 years from purchase.

The Commission acknowledges that a fully functioning single market needs well-protected and empowered consumers. For this reason, the proposal includes measures that clearly improve the protection for consumers both at the Union level and in individual Member States, such as the extension of the period during which the burden of proof of non-conformity is reversed in favour of the consumer – an area where the Commission is pleased to see that the Houses of Oireachtas welcome the policy choice introduced in the proposal.

Therefore, while the Commission acknowledges that national law could be affected and that in some cases this could lead to a certain decrease of the national level of consumer protection on one or two specific points, such possible decreases would be compensated to a certain extent by other rules foreseeing a higher level of consumer protection. This approach represents the Commission's view of a viable and balanced compromise, which sets a level of protection for consumers at Union level considerably higher than the existing acquis, while at the same time avoiding an unrealistic approach of fully harmonising consumer contract law rules at the highest national peaks.

The Commission shares the Houses of the Oireachtas' view that product-specific legislation is the appropriate means to address issues related to durability requirements for the lifespan of different types of products. In that respect, the proposal for a Directive on certain aspects concerning contracts for the sales of goods is complemented by sector-specific Union legislation such as the Ecodesign Directive¹ or the Energy

¹ 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. 10–35.

Labelling Regulation² and their implementing and delegated acts, where product-specific durability requirements are introduced.

Finally, the Commission would like to point out that the negotiations by the co-legislators, the European Parliament and the Council, on the amended proposal for a Directive on certain aspects concerning contracts for the sales of goods are currently underway. The level of consumer protection as well as the concerns related to more protective national rules currently applicable in certain Member States are among the issues being debated by the co-legislators. The Commission follows closely the discussions on all these important points, and will support any solution that would ensure a proper balance for the benefit of consumers and businesses throughout the Union.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Houses of the Oireachtas and looks forward to continuing the political dialogue in the future.

Yours faithfully,



*Frans Timmermans
First Vice-President*



*Věra Jourova
Member of the Commission*

² Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU; OJ L 198, 28.7.2017, p. 1–23.