

(C) Main recommendations for improvements

(1) Better explain the existing framework, the baseline scenario and the need for further EU action. The report should better describe the existing and proposed EU rules, and in particular should better explain in the baseline scenario why legislation such as the forthcoming Consumer Rights Directive, the E-commerce Directive, the conflict of law rules, as well as non-acquis rules, such as the Vienna Convention, do not fully address the problems identified and consequently why further EU level action is required and how this initiative fits into the overall framework. The report should also explain how the identified problems and proposed measures relate to internal market objectives and how consistency between the existing and planned measures will be achieved. The report should briefly describe how the current contractual arrangements for cross-border transactions operate in practice, for both business-to-business and business-to-consumer transactions.

(2) More balanced presentation of options. The report should ensure that the analysis of options is more balanced and proportionate, focussing on the more feasible options, and explaining fully why certain options, such as full harmonisation, are not considered feasible. Furthermore, alternative variants of options for harmonisation (such as only harmonising cross-border transactions) should be considered as a separate alternative option or be analysed in greater depth before being discarded. The report should also justify the choice of measure including specific provisions which will provide better consumer protection for several parts of the EU.

(3) Assessment of economic impacts. The report should better justify and explain the assumptions underlying the assessment of the impacts, including the key factors influencing take-up of the proposed Optional Instrument such as size of company and domestic contract law. The report should fully describe the proposed substantive clauses of the preferred Optional Instrument, explaining how they will co-exist with national measures and assess more explicitly the likely effects of the content of the instrument on its attractiveness to businesses and consumers respectively, differentiating between Member States. The report should also demonstrate more clearly how the preferred option achieves an appropriate balance between consumer and business interests, also with regard to differences in consumer protection between Member States. The report should provide a better presentation of the underlying assumptions, methodology and key results of the quantitative analysis in the main text. The presentation of the analysis of the economic impacts should be improved, for example, by including a summary of all the effects, including on employment and GDP, together in one table clearly showing ranges of the benefits and costs including implementation and compliance costs for each of the options. The report should be explicit on the treatment of costs and benefits of the Optional Instrument when it provides higher standards than national consumer protection law. The assessment of the economic effects should be clearly justified in light of the estimated take-up of the proposed Optional Instrument.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should reflect the comments of all stakeholders throughout the document and on all major points showing in particular stakeholders' views on the options for full harmonisation and the Optional Instrument.

(E) IAB scrutiny process	
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Reference number	2011/JUST/001
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External expertise used	No
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Date of IAB meeting	19 July 2011
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