

Consumer Protection and Electronic Communication within European Law

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Agenda



- I. Overview of legal framework
- II. Consumer
- III. Protection rules

Agenda



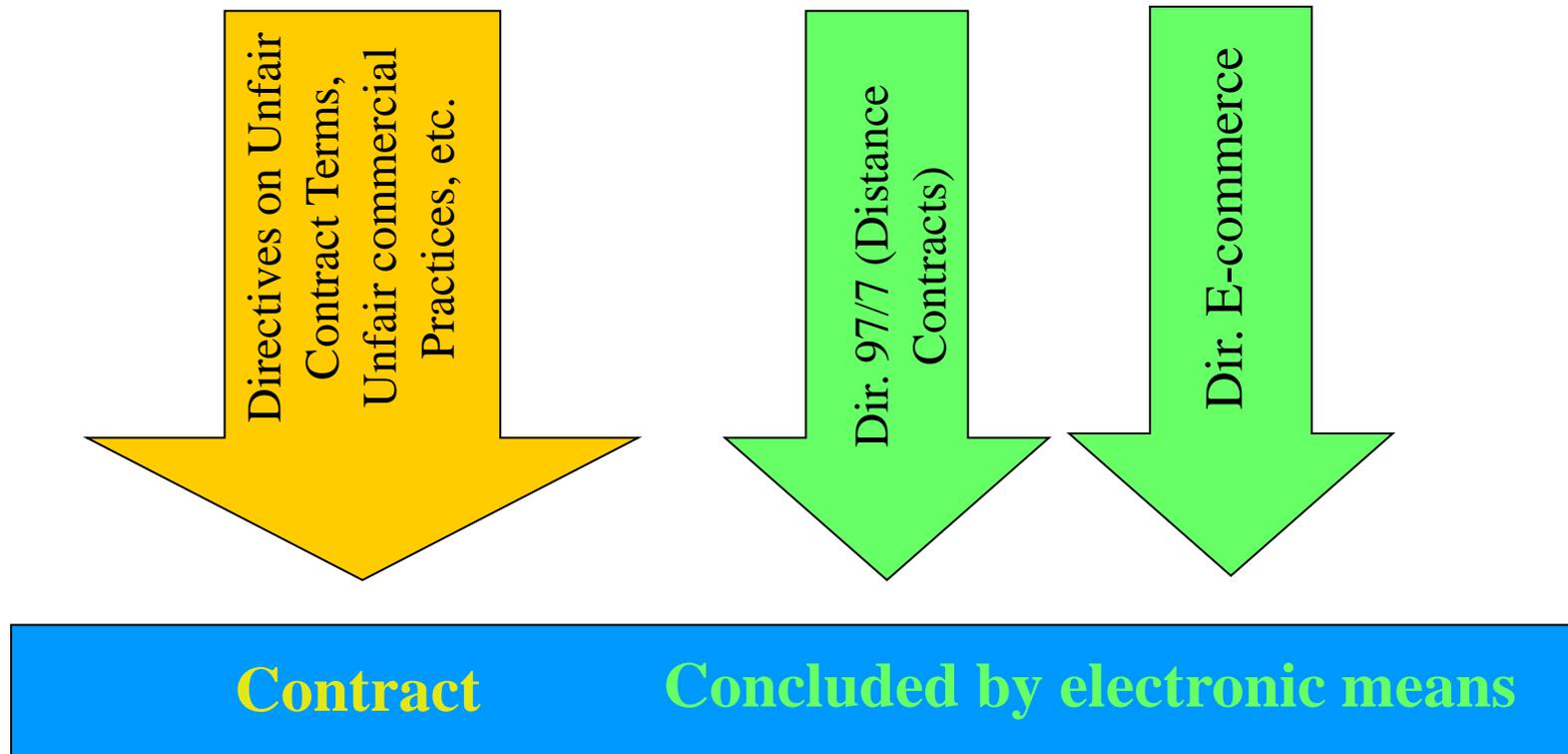
I. Overview of legal framework

II. Consumer

III. Protection rules

I. Overview of legal framework

✓ Consumer Protection (contractual rights)



I. Overview of legal framework



✓ Electronic Communication Regulatory Framework

- Framework Directive (2002/21/EC)
- Authorisation Directive (2002/20/EC)
- Access Directive (2002/29/EC)
- Universal Service Directive (2002/22/EC)
- Directive on Privacy and Electronic Communication (2002/58/EC)
- Roaming regulation
- Etc.

I. Overview of legal framework



✓ Electronic Communication Regulatory Framework

- Consumer protection ? Cf. art. 8 FD
 - Competition
 - Development of internal market
 - Interests of the citizens by *inter alia*:
 - (a) ensuring all citizens have access to a universal service ;
 - (b) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;
 - (c) contributing to ensuring a high level of protection of personal data and privacy;
 - (d) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;
 - (e) addressing the needs of specific social groups, in particular disabled users, elderly users and users with special social needs;
 - (f) ensuring that the integrity and security of public communications networks are maintained;
 - (g) promoting the ability of end-users to access and distribute information or run applications and services of their choice;

I. Overview of legal framework



✓ Electronic Communication Regulatory Framework

- Review in 2009 :
 - Citizen's rights Directive (2009/136/EC)
 - » Amending US Directive ; directive on privacy and ecomm ; reg on international cooperation for enforcement of consumer protection rules
 - » Focus on - and enhancement of consumer protection
 - Better regulation directive (2009/140/EC)

I. Overview of legal framework



✓ Complex legal framework

- Scope and articulation issues

Cf. Art. 1 (4) directive US : « The provisions of this Directive concerning end-users' rights shall apply without prejudice to Community rules on consumer protection, in particular Directives 93/13/EEC and 97/7/EC, and national rules in conformity with Community law ».

- Minimum harmonisation directive v. full harmonisation directive

+ self or co-regulation measures

Agenda



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II. Consumer



✓ Definition

- « any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession » (art. 2, i, FD)

✓ Weaker contract party :

- Lack of information on factual or legal data related to the contract
- Bargaining power of parties

II. Consumer



✓ Scope of the rules ?

- User / End-user / Consumer / Subscriber
- Minors, Elderly end-users, Disabled end-users
- SMEs, Micro-entreprises

Agenda



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III. Protection rules



✓ Fair and transparent contract relationship

- Prohibition of unfair contract terms (dir. 93/13/EEC)
- Prohibition of unfair commercial practices (dir. 2005/29/EC)
- Information duties in the contract (art. 20 USD)
 - Identity and address of undertaking
 - Services provided
 - Personal data
 - Price
 - Duration of the contract and conditions for renewal

III. Protection rules



✓ Fair and transparent contract relationship

- Facilitating change of provider (number portability) – art. 30 USD
- Right of withdrawal in case of modification of contractual conditions (art. 20 USD)

III. Protection rules



- ✓ **Transparency and publication of information (art. 21 USD)**
- ✓ **Quality and availability of services (art. 22-23 USD)**
- ✓ **Equivalence in access and choice for disabled end-users (art. 23a USD)**
- ✓ **Privacy**
- ✓ **Roaming regulation (price regulation)**

III. Protection rules



✓ Consumer Law Enforcement

- Penalties
 - Civil / Criminal ?
 - Appropriate, effective, proportionate and dissuasive
- Out-of-court dispute resolution
- Cross-border dispute and international cooperation

Thank you for your attention!

Questions?

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