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Study for the Fitness Check of EU consumer and marketing law

Final report Part 2 – Report on the open public consultation

Prepared by Civic Consulting
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Study for the Fitness Check of EU consumer and marketing law

Final report Part 2 – Report on the open public consultation

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Executive Summary

The open public consultation for the Fitness Check of EU consumer and marketing law

From 12 May to 12 September 2016, the European Commission carried out an open public consultation for the Fitness Check of EU consumer and marketing law.[1] The questionnaire was made available online via EUSurvey in 23 EU languages.[2]

The consultation was designed to obtain views on whether EU consumer and marketing rules are still up to date and fit for purpose. The following six directives are subject to the Fitness Check:

- Unfair Contract Terms Directive 93/13/EEC;
- Consumer Sales and Guarantees Directive 1999/44/EC;
- Unfair Commercial Practices Directive 2005/29/EC;
- Price Indication Directive 98/6/EC;
- Misleading and Comparative Advertising Directive 2006/114/EC;
- Injunctions Directive 2009/22/EC.

This consultation also covered the Consumer Rights Directive 2011/83/EU, which is subject to a separate evaluation by the Commission.

The consultation was structured in three questionnaires. The consumer questionnaire was available only to respondents that indicated that they were “a citizen/consumer”. The business questionnaire was available only to respondents that indicated that they were “a company (or group of companies)”. The “full” questionnaire was targeted at the other types of respondents and was optional for those consumers and companies who wanted to continue after completing their respective short questionnaires. The three survey questionnaires used closed questions and gave respondents the possibility to comment in each section. Some of the respondents also chose to upload a position paper with additional comments after completing the survey.

Respondents

In total, 436 respondents filled in the online questionnaire. The table below displays the total number of responses received for each part of the consultation.

[1] Further information on the Fitness Check can be accessed here: http://ec.europa.eu/consumers/consumer_rights/review/index_en.htm

[2] EUSurvey is the European Commission's official survey management tool.

Table 1: Responses received to consultation

Responses	Total responses	Consumer questionnaire	Business questionnaire	Full questionnaire
Number of responses	436	97	176	237
% of total	100%	22%	40%	53%

Source: Public consultation for the Fitness Check of EU consumer and marketing law. Note: the number of responses to the consumer, business and full questionnaires does not sum to the number of total responses, as some respondents who answered the consumer or business questionnaires also submitted answers to the full questionnaire.

Additionally, 55 position papers were received from the respondents, including three position papers submitted to DG Justice and Consumers outside the EUSurvey tool within the period of the consultation.

For the analysis of responses to the full questionnaire, respondents other than "consumers" and "companies" are grouped into four broader categories (consumer associations, business associations, public authorities, and other). The table below presents the number of responses received from each category of respondent.

Table 2: Responses by category of respondent

Category	Total responses	% of total
Consumers	97	22%
Businesses	176	40%
Business associations	86	20%
Consumer associations	20	5%
Public authorities	28	6%
Other	29	7%
Total	*436*	*100%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Are you replying as/on behalf of:*

Responses were received from all 28 Member States and “other” countries including Switzerland, Norway, Turkey and the United States.

Results of the consumer survey

The consumer survey received 97 responses in total representing 14 Member States.

Purchasing behaviour

Consumers were first asked how often they had completed a number of actions related to purchasing goods and services in the past 12 months. 92% of consumer respondents indicated that they had purchased goods or services via the internet from a domestic trader at least once within the last 12 months, compared to 41% who responded that they had purchased goods or services via the internet from a trader located in another EU country. 76% of consumer respondents purchased goods in a shop in another EU country while travelling at least once in the past 12 months. In

comparison, 6% of consumer respondents purchased goods or services over the telephone from a trader from another EU country in the past 12 months (the least frequent form of consumer purchase).

Views on consumer and marketing law

Consumer respondents were next asked about the importance of being protected by consumer and marketing law when buying goods or services domestically and from other countries. The majority of consumer respondents view being protected by consumer and marketing law when buying goods and services as important regardless of whether they are making a purchase domestically, within or outside the EU. Specifically, this protection is viewed as important by 98% of consumer respondents with respect to domestic transactions, 96% with respect to transactions within the EU, and 82% with respect to transactions outside the EU.

Problems experienced

Consumer respondents were then asked a series of questions regarding any problems they had encountered in dealing with sellers and service providers within the last 12 months. 47% of consumer respondents reported that they had experienced problems in dealing with traders in the past year, while 53% had not.

Consumer respondents who reported having experienced a problem were then asked to select the most serious problem they encountered in the past 12 months. 23% of consumer respondents who filled out this section of the consumer survey indicated that their most serious problem encountered in the past 12 months as related to traders failing to provide key information prior to concluding contracts. The next most serious problems related to being misled by traders' marketing statements and subsequently concluding a transaction that the consumer regretted afterwards (20%).

Views on the effectiveness of national authorities and courts in protecting EU consumers

All consumer respondents were finally asked to assess how well the competent national authorities and courts implement consumer and marketing law to protect EU consumers. The consumer respondents were divided in their opinions. While 42% of all consumer respondents believe that the competent national authorities implement the law to protect EU consumers either very well or rather well, the same share of respondents view these authorities to implement such law either rather not well or not well at all. With respect to national courts, 40% of consumer respondents believe that the national courts implement consumer and marketing law to protect EU consumers either very well or rather well, while 32% of consumer respondents view the courts to implement such law either rather not well or not well at all.

Results of the business survey

The business survey received 176 responses representing 14 Member States.

Views on the ease of conducting business and on protection against certain practices in B2B relations

Business respondents were asked to provide their opinion regarding various statements about the ease of conducting business and protection against certain practices in business-to-business (B2B) relations. Most business respondents either strongly agree or tend to agree that businesses are well protected against unfair comparative advertising of other businesses (69%), and that businesses are well

protected against misleading marketing practices of other businesses (65%). 31% of business respondents either strongly agree or tend to agree that businesses can easily trade across the EU due to harmonised EU consumer and marketing rules, while 59% of business respondents indicated that they have no opinion or do not know.

Views on the benefits and costs of compliance

Business respondents were also asked to indicate the benefits for businesses that come from complying with EU consumer and marketing law. “Consumers whose rights are respected come back”, “consumers whose rights are respected bring/attract other consumers” and “consumers whose rights are not respected discourage other consumers” were each selected by about 80% of business respondents as benefits for businesses from complying with EU consumer and marketing law.

Business respondents were then asked to provide their most accurate estimate of the direct costs of compliance with consumer and marketing rules for their company as a percentage of annual turnover. The median value provided by the 66 business respondents that responded to the question was 1%, which was also the mode. Estimates ranged from a minimum value of 0% to a maximum value of 65%.

Problems experienced

Business respondents were asked whether they had been confronted with misleading B2B marketing within the past 12 months. 39% of business respondents reported that they had been confronted with misleading B2B marketing at least once in the past year, while 43% of business respondents reported that they had not.

Business respondents who had experienced a problem were then asked whether they were able to solve their last problem in a satisfactory way. 20% of business respondents who experienced a problem with misleading B2B marketing reported being able to fully solve their problem, 50% were able to partially solve their problem, and 17% could not solve their problem at all. When asked about the reasons why their problem could not be fully solved, about one-quarter (26%) of business respondents that had problems indicated that they had no opinion or did not know why they did not fully solve their problem. The next most selected reason for not fully solving their problem was that “court proceedings are too complex/long/costly” (22%).

Views on the effectiveness of national authorities and courts in protecting EU businesses and consumers

Business respondents were then asked to assess how well the competent national authorities and national courts implement consumer and marketing rules to protect EU businesses against misleading marketing. With respect to national authorities, most businesses (58%) responded with “No opinion/don’t know”, while 20% considered national authorities to protect EU businesses against misleading marketing “rather” or “very well” and 21% answered with “rather not well” or “not well at all”. In contrast, when asked about national courts, 63% of businesses agreed that courts protect businesses against misleading marketing “rather” or “very well”, 19% thought that courts protect businesses “rather not well” or “not well at all”, and 18% answered with “No opinion/don’t know”.

Finally, as in the consumer survey, business respondents were asked to assess how well the competent national authorities implement consumer and marketing rules to protect EU consumers. In both cases, more than 70% of businesses thought that national authorities and courts protect consumers “rather well” or “very well”. Overall, businesses indicated that they are more positive about the effectiveness of national authorities and national courts in protecting consumers than the consumers themselves. About 40% of consumers consider both national authorities and national

courts to implement consumer and marketing rules "rather well" or "very well", compared to more than 70% of businesses.

Results of the full questionnaire

The full questionnaire received 237 responses representing all 28 Member States, including 9 responses from non-EU countries.

Views on the benefits of EU consumer and marketing laws for consumers

In the first section of the full questionnaire of the public consultation, respondents were asked to assess various EU consumer and marketing rules with respect to their benefit to consumers. The rights that are viewed by the most respondents as beneficial are the "right to be protected against misleading or aggressive commercial practices" and the "right to get adequate information about the goods and services offered" (both viewed by 85% of respondents as either "very beneficial" or "rather beneficial"). Among the listed rights, the one that was viewed by the fewest respondents as beneficial was the "right to get information about the functionality and interoperability of digital content" (58%).

Respondents were also given the option to submit comments, in particular regarding other rights under EU consumer and marketing law that they considered to be beneficial for consumers. In their comments, several respondents insisted on the need for better or more consistent enforcement of existing rights. A few respondents pointed to the following other rights that they considered to be beneficial: rights under sector-specific legislation (especially in passenger transport services), access to alternative dispute resolution, rights regarding the allocation of the delivery risk to the trader, the right to contact the trader by telephone at the local rate, and the right to terminate the contract if no delivery has taken place within 30 days.

Views on the effectiveness of the injunctions procedure

Respondents were asked about their views on the effectiveness of injunctions taken by consumer organisations and public bodies to stop infringements of consumers' rights in various economic sectors. Injunctions are viewed as either very effective or rather effective by 35% of respondents for the online provision of goods, services and digital content and 33% of respondents for communications and internet access services. Injunctions were perceived as least effective in the financial services sector, with 27% of respondents considering them to be very or rather effective. In all sectors except the online provision of goods, services and digital content, more than half of respondents either did not respond or selected "no opinion/don't know".

Respondents were asked to assess the effectiveness of injunction actions sought against a variety of illegal practices. There was no practice against which at least half of respondents considered injunction actions to be either very effective or rather effective. The respondents considered injunctions to be most effective against the use by traders of unfair standard contract terms (44%), breaches of traders' obligations related to the information they are legally required to provide to consumers (44%) and use by traders of misleading or aggressive commercial practices (43%).

When asked to assess the interplay between the Injunctions Directive and provisions on the enforcement of consumer rights in other directives covered by the public consultation questionnaire, close to half of respondents agree that there is a need for ensuring coherence between the Injunctions Directive and other provisions on enforcement of consumer rights (46%) and that there is a need for clarification of the interplay between the Injunctions Directive and other provisions on enforcement of

consumer rights (44%). In the case of both statements, at least 40% of respondents either did not answer the question or selected “no opinion/don’t know”.

In their comments, many respondents, generally consumer associations and public authorities, noted that injunctions were not at all or rarely used in their jurisdictions. The most common reasons given were the cost, length, and uncertainty of the procedure (particularly for cross-border infringements), although some respondents also noted that other national enforcement tools were preferred in their country.

Views on the importance of various problems for protecting the rights of consumers

Respondents were asked to assess a variety of problems in terms of their importance for protecting the rights of consumers. “Consumers don’t know/don’t understand their rights” was the problem viewed by the most respondents (73%) as very or rather important for protecting the rights of consumers. About two-thirds of all respondents also view the problems of consumer law being too complex (68%), court proceedings being too complex, long or costly (67%), and traders not knowing or understanding consumer protection rules (67%) as important for protecting consumer rights.

Several respondents from many different Member States, particularly businesses and business associations, commented that consumer law is too complex for consumers and businesses (especially SMEs) to understand, leading to a lack of knowledge about the applicable rules. Some public authorities and consumer associations, for example, in Austria, Belgium, Germany, and Portugal, suggested that the high costs and time commitment required discourage consumers from exercising their rights, especially in cases where these rights have no clear link to compensation or redress.

Views on the effectiveness of self- and co-regulation initiatives and on the position of businesses in the context of EU consumer and marketing rules

Respondents were asked about the effectiveness of self- and co-regulation initiatives by businesses at the national or EU level with respect to protecting the rights of consumers. Over half of all respondents view these initiatives as effective in protecting consumer rights (31% view them as “very effective”, and 23% view them as “rather effective”), 25% view them as rather or not at all effective in protecting consumer rights, and the remaining 21% selected “no opinion/don’t know” or did not respond.

Respondents were then asked about their opinion on a number of statements regarding the position of businesses in the context of EU consumer and marketing rules. More than half of respondents agree that businesses are well-protected against misleading marketing practices of other businesses (59%) and that businesses are well-protected against unfair comparative advertising of other businesses (53%). However, slightly less than half agree that businesses can trade across the EU easily thanks to harmonised EU consumer and marketing rules (43%), and a large proportion of respondents to the latter statement either did not respond or answered with “no opinion/don’t know” (40%).

Views on the impact of EU consumer and marketing law

The next set of questions asked respondents to assess how positive or negative the impact of EU consumer and marketing law has been in various areas. A majority of all respondents found that the impact of EU consumer and marketing law had a very positive or rather positive impact on the “protection of consumers against unfair commercial practices” (79%), the “amount and relevance of information available to consumers to compare and make informed purchasing choices” (60%), the creation of “a level playing field amongst EU-based businesses” (58%) and the “protection of businesses against misleading marketing and unfair comparative advertising” (56%).

In their comments, several public authorities and consumer associations, for example in Austria, Belgium, Germany, and Portugal, emphasised that information requirements are critical in providing a high level of protection for consumers. Consumer organisations in France and Austria commented that access to individual and collective remedies is necessary to improve the effectiveness of EU consumer law.

Views on the effectiveness of consumer redress/enforcement mechanisms

The next set of questions asked respondents to assess the effectiveness of various consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules. At least half of respondents perceived the following enforcement mechanisms to be "very effective" or "rather effective": "An individual consumer gets redress through direct negotiations with the trader" (53%), "A court issues an injunction which stops an infringement of consumer rights" (52%) and "An individual consumer gets redress through an alternative dispute resolution mechanism" (50%).

Consumer associations considered injunctions to be effective enforcement measures, but emphasised that their effectiveness would be increased by requiring publication of the injunction order, creating a direct link to redress, and including penalties for non-compliance. Businesses and business associations generally considered the current range of enforcement and redress options to be sufficient, and emphasised that most problems are ideally solved through direct negotiation between the trader and consumer, with court action as a last resort.

Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights

Respondents were then asked to assess the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in several areas. These included consumer financial services, passenger transport, energy supply, electronic communications services and environmental protection.

In all sectors, the most commonly agreed-upon statement was that "The cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened" (ranging from 33% of respondents either tending to agree or strongly agreeing for the energy supply sector to 45% for consumer financial services), followed by "EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector specific rules" (ranging from 26% agreement for the passenger transport sector to 38% agreement for consumer financial services). The least agreed-upon statement in all sectors was that "Consumers are aware of the complementary application of EU consumer and marketing rules in the specific sector", ranging from 9% agreement among respondents for the energy supply sector to 16% agreement for electronic communications services.

Views on potential areas to improve EU consumer and marketing rules for the benefit of consumers

In the next set of questions, respondents were asked to indicate their opinions regarding potential ways of improving EU consumer and marketing rules for the benefit of consumers. The areas for improvement with respect to EU consumer and marketing rules that respondents strongly agree with/tend to agree with the most are "the information given to consumers at the advertising stage should focus on the essentials while more detailed information should be required only at the moment before the contract is concluded" (63% of respondents), "the marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be

regrouped and streamlined" (62% of respondents) and "online platform providers should inform consumers about the criteria used for ranking the information presented to consumers" (59% of respondents). The area for improvement that respondents strongly agree with or tend to agree with the least is "there should be additional requirements for the protection of 'vulnerable consumers' as regards standard contract terms" (23% of respondents).

More than half of the respondents to the full survey (141 in total) chose to provide additional comments. The most common comment provided by consumer organisations and individual consumers was the need to extend the guarantee period beyond two years for certain durable goods (for example, cars or large household appliances). Consumer organisations in Austria, France, Germany, Portugal, the UK and at the EU level emphasised the need to make enforcement and redress a priority, in particular by making the injunction process simpler and less costly, and by introducing a right to individual remedies and introducing dissuasive sanctions. The most common comment from business associations and individual businesses, in contrast, is that they see no need to change the existing Directives.

Views on potential areas to improve the protection of businesses

In the final set of questions, respondents were asked about the extent to which they agree or disagree on various statements regarding potential areas to improve the protection of businesses, especially SMEs and micro-enterprises. Respondents' opinions are largely divided with respect to potential areas of improvement for the protection of businesses. 39% of respondents either strongly agree or tend to agree that business protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited, and 38% agree that business protection against unfair commercial practices should be strengthened by introducing an enforcement co-operation mechanism for cross-border B2B infringements. For all statements, at least 30% of respondents did not respond or answered with "no opinion/don't know".

Respondents were then provided an open text field to explain their reply. In terms of overall trends, the individual business respondents were almost equally divided as to whether aspects of the consumer law framework should be extended to B2B relations. Business associations were also divided on this question, although most were not in favour of an extension of the consumer law framework to B2B relations.

Results of the analysis of open submissions

Respondents to the public online consultation for the Fitness Check of EU consumer and marketing law had the possibility to submit a position paper with additional comments. In total, 55 position papers were received. Three quarters of the optional submissions received (39 in total) were provided by business stakeholders, comprising individual businesses (6) and, more commonly, business associations (33). Public authorities were the second most common source of submissions (8), followed by other organisations (5) and consumer organisations (3). Slightly more than one third of submissions (20, or 36%) were made by EU-level organisations, while 64% came from respondents at the national level.

After all submissions were reviewed in depth, recurring topics were categorised and all documents tagged on this basis to facilitate the qualitative analysis. These topics have been grouped by Directive are presented by type of respondent.

General themes

Stakeholders generally agreed that the consumer acquis should be streamlined and consolidated where possible, that information requirements are currently too extensive and overwhelming for consumers and traders, that the consumer acquis needs to be updated to better address the challenges of the digital market, and that better and more consistent enforcement of the rules across Member States is needed. Consumer organisations also emphasised that enforcement must be clearly linked with substantive remedies/redress.

Unfair Commercial Practices Directive and Misleading and Comparative Advertising Directive

In total, 34 submissions provided specific comments on the Unfair Commercial Practices Directive (UCPD) and 19 provided comments on the Misleading and Comparative Advertising Directive (MCAD). Business stakeholders generally commented that current protections against unfair commercial practices were sufficient, but should be better enforced, and were divided on whether greater protection should be provided in B2B relations. Consumer organisations and public authorities saw opportunities to improve protection under the UCPD, for example, by adapting the concepts of the "average" and "vulnerable consumer" to new research into consumer behaviour, addressing the challenges of the sharing economy and online platforms, and emphasising the need for more consistent enforcement and better access to redress and contractual remedies.

Price Indication Directive

In total, 16 submissions provided comments on the Price Indication Directive (PID). Stakeholders argued that price indication requirements should be consolidated and streamlined, and commented that the PID should be made more consistent across the EU with respect to allowable units and exemptions. Business stakeholders commented that price per use should be permitted in all Member States, and added that compliance with the PID poses challenges in the online environment. Consumer organisations and public authorities commented that the PID should be better enforced and expanded to cover other non-food items and services.

Unfair Contract Terms Directive

In total, 24 submissions provided specific comments on the Unfair Contract Terms Directive (UCTD). Business stakeholders were generally in favour of the status quo, and most responses (particularly from business associations) opposed an extension of the UCTD to B2B relations. The use of a uniform or graphical model for standard terms and conditions as well as an EU-wide blacklist of unfair terms were considered to be unworkable in practice. Consumer organisations emphasised that the UCTD should remain minimum harmonised, and proposed improvements for consumers, including an extension to cover the adequacy of the price, main subject matter, and individually negotiated terms, a black list of unfair terms, and suggested that the presentation of standard terms and conditions should be simplified, without losing quality.

Injunctions Directive

In total, 22 submissions provided comments on the Injunctions Directive. Business stakeholders generally argued to preserve the status quo, and did not want revisions to include sanctions or EU-level class action lawsuits in particular. Consumer organisations and public authorities thought that injunctions were useful, but needed improvement. Specifically, these stakeholders reported that injunctions are very costly, or carry significant risks of incurring high costs, especially in cross-border proceedings; that the *inter partes* effect in most Member States limits ability of

consumers to receive compensation; that there is little effect on trader behaviour without clear sanctions; and that there is a need for a more effective link to substantive redress for consumers.

Sales and Guarantees Directive

In total, 27 submissions provided comments on the Sales and Guarantees Directive. All stakeholder types commented that online and offline sales and guarantees should be covered in the same Directive. Business stakeholders generally argued in favour of the status quo, in particular regarding the burden of proof and legal guarantee period. Consumer organisations commented that the Directive had set a strong minimum standard, but thought that it could be revised to improve consumer protection, in particular by extending the period for the reversal of the burden of proof beyond six months and allowing the legal guarantee period for goods to depend on the characteristics of the good. Consumer organisations also argued that the Directive should remain minimum harmonised to avoid lowering consumer protection.

Consumer Rights Directive

In the submissions that commented on the Consumer Rights Directive (CRD), the three main issues discussed by stakeholders included information requirements, the 14-day withdrawal period for distance sales, and the 30-day period for delivery and passing on risk. Business stakeholders generally argued that information requirements should be simplified, and pointed out that the withdrawal period is complicated to apply in practice, particularly with respect to digital content. Consumer organisations emphasised the importance of information requirements and the need to consider how information is presented in light of behavioural research, particularly in the digital market. Consumer organisations also emphasised the importance of the 14-day withdrawal period for online and other distance sales.

1. Introduction

From 12 May to 12 September 2016, the European Commission carried out an open public consultation for the Fitness Check of EU consumer and marketing law.[3] The questionnaire was made available online via EUSurvey in 23 EU languages.[4]

The consultation was designed to obtain views on whether EU consumer and marketing rules are still up to date and fit for purpose. The following six directives are subject to the Fitness Check:

- Unfair Contract Terms Directive 93/13/EEC;
- Consumer Sales and Guarantees Directive 1999/44/EC;
- Unfair Commercial Practices Directive 2005/29/EC;
- Price Indication Directive 98/6/EC;
- Misleading and Comparative Advertising Directive 2006/114/EC;
- Injunctions Directive 2009/22/EC.

This consultation also covered the Consumer Rights Directive 2011/83/EU, which is subject to a separate evaluation by the Commission.

This report – prepared by Civic Consulting – summarises the results of the public consultation, for which 436 responses were received from stakeholders across the EU, as well as from non-EU countries. Section 2 provides an overview of respondents to the questionnaire. Section 3 summarises the results of the consumer questionnaire. Section 4 summarises the results of the business questionnaire, Section 5 presents the results of the full questionnaire, and Section 6 presents a summary of the open submissions provided by some respondents (mainly business associations, public authorities and consumer associations).[5]

[3] Further information on the Fitness Check can be accessed here: http://ec.europa.eu/consumers/consumer_rights/review/index_en.htm

[4] EUSurvey is the European Commission's official survey management tool.

[5] Responses and position papers submitted to the public consultation by respondents that agreed to allow their data to be published are available on the website of the European Commission: http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=31689

2. Respondents

This section presents an overview of respondent characteristics, including the number of responses received and the distribution of responses by respondent category and country.

2.1. Number of responses received

In total, 436 respondents filled in the online questionnaire[6]. The first part of the consultation (the consumer questionnaire) was available only to respondents that indicated that they were "a citizen/consumer". The second part of the consultation (the business questionnaire) was available only to respondents that indicated that they were "a company (or group of companies)". The third part of the consultation (the "full" questionnaire) was targeted at the other types of respondents and was optional for those consumers and companies who wanted to continue after completing their respective short questionnaires. The table below displays the total number of responses received, as well as the number of responses received for each part of the consultation.

Table 3: Responses received to consultation

Responses	Total responses	Consumer questionnaire	Business questionnaire	Full questionnaire
Number of responses	436	97	176	237
% of total	100%	22%	40%	53%

Source: Public consultation for the Fitness Check of EU consumer and marketing law. Note: the number of responses to the consumer, business and full questionnaires does not sum to the number of total responses, as some respondents who answered the consumer or business questionnaires also submitted answers to the full questionnaire.

2.2. Responses by respondent category

Stakeholders were asked to select their respondent type. Specifically, they were asked to indicate whether they were replying as a citizen/consumer, a national consumer association, a European-level consumer association, a company (or group of companies), a national business association, a European-level business association, a national consumer enforcement authority, a national public enforcement authority in a specific area (energy, telecom, etc.), a government authority in charge of consumer policy, another public body/institution, a professional consultancy/law firm, a think tank/university/research institute, and other. The table below presents the number of responses received from each category of respondent.

For the analysis of responses to the full questionnaire, respondents other than "consumers" and "companies" are grouped into four broader categories (consumer associations, business associations, public authorities, and other), as shown below.

[6] A few additional replies were submitted to the Commission outside the EUsurvey tool. Their open text elements are taken into account in the respective analysis (see Section 6 below) but these additional replies are not considered in the statistical analysis of the consultation responses.

This was done in order to better discern trends in responses among respondent categories.[7]

Table 4: Responses by category of respondent

Category	Type of respondent	Total responses	% of total
Consumers	Citizen/consumer	97	22%
Businesses	Company (or group of companies)	176	40%
Business associations	European-level business association	35	8%
	National business association	51	12%
Consumer associations	European-level consumer association	4	1%
	National consumer association	16	4%
Public authorities	Government authority in charge of consumer policy	13	3%
	National consumer enforcement authority	10	2%
	National public enforcement authority in a specific area (energy, telecom etc.)	5	1%
Other	Professional consultancy/ law firm	4	1%
	Think tank/ university/ research institute	3	1%
	Another public body /institution	7	2%
	Other	15	3%
Total		*436*	*100%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Are you replying as/on behalf of:*

As shown in the table above, business respondents submitted the most responses as a category, representing 40% of total responses. Consumer respondents and business associations also represented significant shares of responses, with 22% and 20% of the total, respectively. 5% of responses were received from consumer associations, 6% from public authorities, and 7% from "other" stakeholders such as law firms, consultancies, courts, think tanks and interest groups.

[7] Respondents identifying themselves as "Another public body/institution" are included in the "Other" category rather than the "Public authorities" category, as these respondents are not comparable to public authorities in the field of consumer protection. Among these seven respondents were, for example, courts, notaries, workers' chambers, and public consultative bodies.

2.3. Responses by country

Respondents were also asked to indicate their country of residence (in the case of individuals) or country where their headquarters/place of establishment is located (in the case of entities). The table below presents the number of responses received from each country.

Table 5: Responses by country

Country	Total responses	% of total
Austria	12	3%
Belgium	48	11%
Bulgaria	13	3%
Croatia	1	0.2%
Cyprus	5	1%
Czech Republic	4	1%
Denmark	7	2%
Estonia	7	2%
Finland	7	2%
France	15	3%
Germany	216	50%
Greece	1	0.2%
Hungary	5	1%
Ireland	2	0.5%
Italy	8	2%
Latvia	2	0.5%
Lithuania	1	0.2%
Luxembourg	1	0.2%
Malta	1	0.2%
Netherlands	8	2%
Poland	1	0.2%
Portugal	9	2%
Romania	9	2%
Slovak Republic	4	1%
Slovenia	1	0.2%
Spain	10	2%
Sweden	5	1%
United Kingdom	24	6%
Other	9	2%
Total number	*436*	*100%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Please indicate the country where you live, or, if you are replying on behalf of an entity, the country where it has its headquarters/place of establishment.*

As shown in the table above, the most responses were received from Germany, which represented 50% of all responses. The fewest responses were received from Croatia, Greece, Lithuania, Luxembourg, Malta, Poland and Slovenia, each of which represented less than 0.5% of total responses. Responses from “other” countries (representing 2% of total responses) included Switzerland, Norway, Turkey and the United States.

3. Results of the consumer survey

This section presents an overview of the responses received for the consumer questionnaire, which was only displayed to respondents that indicated themselves to be consumers (97 in total).

3.1. Responses by country

The table below presents the breakdown of consumer responses received by country.

Table 6: Consumer responses by country

Country	Total responses	% of total
Austria	3	3%
Belgium	7	7%
Cyprus	3	3%
Estonia	3	3%
France	3	3%
Germany	52	54%
Hungary	4	4%
Italy	3	3%
Netherlands	2	2%
Portugal	5	5%
Romania	7	7%
Spain	2	2%
Sweden	1	1%
United Kingdom	2	2%
Total number	*97*	*100%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Please indicate the country where you live, or, if you are replying on behalf of an entity, the country where it has its headquarters/place of establishment.* Base: all respondents to the consumer survey.

As shown in the table above, consumers from 14 Member States answered the survey. Amongst these, the most consumer responses were received from Germany, which represented 54% of responses. The fewest responses were received from Sweden, which represented 1% of responses.[8]

[8] Note that the sample of consumers is small and based on self-selection. Results should therefore be interpreted with care and not be generalised.

3.2. Purchasing behaviour

As a first question, consumer respondents were asked how often they had completed a number of actions related to purchasing goods and services in the past 12 months.[9] The table below presents the breakdown of responses across respondents.

Table 7: Frequency of various forms of consumer purchases of goods and services

Action	Yes, often	Yes, a few times	Yes, once	No	No opinion / don't know
Purchased goods or services over the internet from a trader in my country	**54%**	33%	5%	8%	0%
Purchased goods in a shop in another EU country whilst travelling	21%	**49%**	6%	24%	0%
Purchased goods or services over the internet from a trader from another EU country	21%	20%	16%	**41%**	2%
Concluded a contract with a trader in my country for downloading (or streaming) digital content over the internet, such as computer programs, applications, music, videos	13%	20%	7%	**59%**	1%
Purchased goods or services over the telephone from a trader in my country	8%	10%	15%	**64%**	2%
Concluded a contract with a trader from another EU country for downloading (or streaming) digital content over the internet, such as computer programs, applications, music, videos	11%	13%	2%	**69%**	4%
Purchased goods or services from a trader who came to my doorstep or organised a promotional excursion	2%	1%	4%	**90%**	3%
Purchased goods or services over the telephone from a trader from another EU country	4%	1%	1%	**92%**	2%

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In the past 12 months, have you done any of the following?* Note: For each action, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the consumer survey. N=97.

[9] This survey question did not cover the most common form of consumer transactions, i.e. purchases in domestic shops as it was assumed that every respondent performs such transactions "often".

The table above shows that in the past 12 months, 92% of consumer respondents purchased goods or services via the internet from a domestic trader at least once. Another 76% of consumer respondents purchased goods in a shop in another EU country while travelling at least once in the past 12 months. In comparison, only 6% of consumer respondents purchased goods or services over the telephone from a trader from another EU country in the past 12 months (the least frequent form of consumer purchase).[10]

3.3. Views on consumer and marketing law

Consumer respondents were next asked about the importance of being protected by consumer and marketing law when buying goods or services domestically and from other countries. The table below displays the assessments of respondents in this regard.

Table 8: Importance of being protected by consumer and marketing law when buying goods or services

Location	Very important	Rather important	Rather not important	Not important at all	No opinion/ don't know
In your own country	**87%**	11%	1%	0%	1%
From another EU country	**79%**	16%	1%	0%	3%
From a non-EU country	**64%**	19%	7%	1%	9%

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important is it for you to be protected by consumer and marketing law when buying goods or services?* Note: For each location, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the consumer survey. N=97.

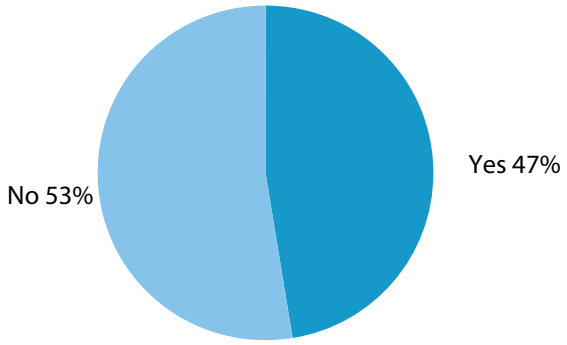
As shown in the table above, the majority of consumer respondents view being protected by consumer and marketing law when buying goods and services as important regardless of whether they are making a purchase domestically, within or outside the EU. Specifically, this protection is viewed as important by 98% of consumer respondents with respect to domestic transactions, 95% with respect to transactions within the EU, and 83% with respect to transactions outside the EU.

3.4. Problems experienced with sellers and service providers

Consumer respondents were next asked if and how often they had encountered any problems in dealing with sellers and service providers within the last 12 months. The figure below presents the breakdown of consumer respondents who had and had not experienced problems with traders in the past year.

[10] The content of tables in this report are ordered from largest to smallest according to the sum of the second and third columns (e.g. the sum of "yes, often" and "yes, a few times", or "strongly agree" and "tend to agree").

Figure 1: Whether consumer respondents have experienced problems in dealing with sellers and service providers in the past 12 months



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In the past 12 months, have you experienced any problems in dealing with sellers and services providers?* Base: all respondents to the consumer survey. N=97.

As shown in the figure above, 47% of consumer respondents (i.e. 46 out of 97) had experienced problems in dealing with traders in the past year, while 53% had not.

3.5. Problems experienced using specific sales channels

Those consumer respondents who indicated having experienced a problem were subsequently asked how often they experienced a variety of problems regarding contracts concluded (1) online; (2) via telephone; (3) in a shop; (4) outside business premises (off-premises).

Although the following questions on consumer experience were only answered by the 46 of the 97 consumer respondents who indicated that they had experienced a problem within the last 12 months, the results are presented using the full sample of 97 as the respondent base for comparability. Respondents who did not experience any problems within the last 12 months are listed in the “Did not experience any problem” column in the following tables.

3.5.1. Problems experienced with contracts concluded online

The table below presents the breakdown of responses concerning contracts concluded online.

Table 9: Frequency of problems experienced regarding contracts concluded online

Action	Yes, often	Yes, a few times	Yes, once	No	No opinion /don't know	No resp-onse	Did not exper-ience any problem
The trader did not provide you with the key information (such as the main characteristics of the goods or service, the total price, delivery conditions) before you concluded your contract	1%	13%	8%	**18%**	1%	6%	*53%*
You were misled by the trader's marketing statements and concluded a transaction that you regretted afterwards	4%	5%	8%	**24%**	1%	5%	*53%*
The trader did not respect your 14 day right to cancel the contract	3%	2%	10%	**26%**	1%	5%	*53%*
You had a dispute with the trader and discovered that you had signed up to general terms of contract that you regarded as unfair	3%	5%	6%	**26%**	2%	5%	*53%*
The seller refused to honour his obligation to repair or replace for free a defective good during the legal guarantee period (in most EU countries 2 years from delivery; longer in some EU countries)	3%	4%	6%	**26%**	2%	6%	*53%*
Other	4%	1%	8%	**16%**	8%	9%	*53%*
The seller failed to deliver the goods you purchased within 30 days or the otherwise agreed time	0%	4%	6%	**27%**	2%	8%	*53%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Did you experience any of the following problems regarding contracts concluded online, including via online platforms?* Note: For each sub-question, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Respondents who indicated that they experienced no problems at all within the last 12 months were not shown this question. Base: all respondents to the consumer survey. N=97.

For contracts concluded online, 22% of the consumer survey respondents reported having a problem in which a trader failed to provide key information at least once in the past year. 18% of consumer respondents reported being misled by a trader's marketing statements and concluding a transaction that was subsequently regretted at least once in the past year. The least-reported problem related to sellers failing to deliver purchased goods within 30 days of the otherwise agreed time — this problem was reported by 10% of consumer respondents.

Thirteen consumer respondents indicated that they experienced "other" problems. Some of these problems related to poor post-purchase customer service, being billed

for a subscription without having concluded a contract, making a purchase with the expectation of receiving a discount, but ultimately not receiving the discount, and having to accept unclear terms and conditions.[11]

3.5.2. Problems experienced with contracts concluded over the telephone

Next, consumer respondents who experienced problems were asked how often they encountered problems regarding contracts concluded over the telephone. The table below presents the breakdown of responses to this question.

[11] Note that in some cases, the problems that consumers considered to fall under the "other" category could have also been listed in one of the existing categories (e.g. misleading marketing or missing information).

Table 10: Frequency of problems experienced regarding contracts concluded over the telephone

Action	Yes, often	Yes, a few times	Yes, once	No	No opinion /don't know	No resp-onse	Did not exper-ience any problem
The trader did not provide you with the key information (such as the main characteristics of the goods or service, the total price, delivery conditions) before you concluded your contract	2%	2%	7%	**23%**	6%	7%	*53%*
You were misled by the trader's marketing statements and concluded a transaction that you regretted afterwards	1%	2%	6%	**25%**	6%	7%	*53%*
You had a dispute with the trader and discovered that you had signed up to general terms of contract that you regarded as unfair	1%	1%	6%	**25%**	7%	7%	*53%*
The seller failed to deliver the goods you purchased within 30 days or the otherwise agreed time	1%	1%	3%	**28%**	7%	7%	*53%*
The trader did not respect your 14 day right to cancel the contract concluded online or over the telephone	0%	2%	2%	**29%**	7%	7%	*53%*
The seller refused to honour his obligation to repair or replace for free a defective good during the legal guarantee period (in most EU countries 2 years from delivery; longer in some EU countries)	0%	1%	1%	**30%**	7%	8%	*53%*
Other	0%	0%	1%	**25%**	9%	12%	*53%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Did you experience any of the following problems regarding contracts concluded over the telephone?* Note: For each action, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Respondents who indicated that they experienced no problems at all within the last 12 months were not shown this question. Base: all respondents to the consumer survey. N=97.

As shown in the table above, 11% of consumer respondents reported experiencing a problem related to a trader failing to provide key information about goods and services before the contract was concluded via telephone at least once in the past year. Another 9% of consumer respondents reported being misled by a trader's marketing statements and concluding a transaction that was subsequently regretted at least once in the past year, and 8% reported experiencing a dispute with a trader and discovered they had signed up to general terms of contract that they regarded as unfair at least once in the past year.

Only one respondent indicated that they experienced a problem falling under the "other" category; however, no further details were provided in the comment field.

3.5.3. Problems experienced with contracts concluded on traders' premises

Consumer respondents who experienced problems were next asked to report how often they encountered problems regarding contracts concluded on traders' premises. The table below displays the responses to this question.

Table 11: Frequency of problems experienced regarding contracts concluded on traders' premises

Action	Yes, often	Yes, a few times	Yes, once	No	No opinion /don't know	No resp-onse	Did not exper-ience any problem
The trader did not provide you with the key information (such as the main characteristics of the goods or service, the total price, delivery conditions) before you concluded your contract	1%	8%	7%	**22%**	4%	5%	*53%*
You were misled by the trader's marketing statements and concluded a transaction that you regretted afterwards	2%	6%	5%	**24%**	4%	6%	*53%*
The seller refused to honour his obligation to repair or replace for free a defective good during the legal guarantee period (in most EU countries 2 years from delivery; longer in some EU countries)	1%	2%	7%	**27%**	3%	7%	*53%*
You had a dispute with the trader and discovered that you had signed up to general terms of contract that you regarded as unfair	1%	2%	6%	**29%**	3%	6%	*53%*
Other	1%	0%	3%	**26%**	6%	11%	*53%*
The seller failed to deliver the goods you purchased within 30 days or the otherwise agreed time	0%	0%	2%	**36%**	3%	6%	*53%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Did you experience any of the following problems regarding contracts concluded on the trader's premises (i.e. in shops)?* Note: For each action, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Respondents who indicated that they experienced no problems at all within the last 12 months were not shown this question. Base: all respondents to the consumer survey. N=97.

According to the table above, 16% of consumer respondents reported experiencing a problem related to a trader failing to provide key information about goods and services before the contract was concluded in a shop at least once in the past year. Another 13% of consumer respondents were misled by a trader's marketing

statements and concluded transactions that were regretted afterwards with respect to contracts concluded in shops at least once.

Four respondents to the consumer survey (i.e. 4% of consumer respondents) reported experiencing "other" problems when concluding a contract on a trader's premises. Out of three follow-up comments that were provided, one of the respondents specified that the trader had not upheld a promise the trader made upon conclusion of the contract, and another indicated that a representative of the trader had visited them at home before they concluded the contract in a shop. A third comment related to the trader failing to terminate a contract or replace the product within a "15 day warranty period".

3.5.4. Problems experienced with contracts concluded during door-to-door sales or promotional excursions

In the next question, consumer respondents who experienced problems were asked about how often they encountered problems regarding door-to-door sales or promotional excursions. The table below presents the breakdown of responses.

Table 12: Frequency of problems experienced regarding contracts concluded during door-to-door sales or promotional excursions

Action	Yes, often	Yes, a few times	Yes, once	No	No opinion /don't know	No resp-onse	Did not exper-ience any problem
You were misled by the trader's marketing statements and concluded a transaction that you regretted afterwards	1%	2%	2%	**22%**	10%	10%	*53%*
The trader did not provide you with the key information (such as the main characteristics of the goods or service, the total price, delivery conditions) before you concluded your contract	0%	3%	2%	**22%**	10%	10%	*53%*
You had a dispute with the trader and discovered that you had signed up to general terms of contract that you regarded as unfair	0%	2%	3%	**22%**	10%	10%	*53%*
The trader did not respect your 14 day right to cancel the contract	0%	3%	0%	**24%**	10%	10%	*53%*
The seller refused to honour his obligation to repair or replace for free a defective good during the legal guarantee period (in most EU countries 2 years from delivery; longer in some EU countries)	0%	1%	2%	**24%**	10%	10%	*53%*
The seller failed to deliver the goods you purchased within 30 days or the otherwise agreed time	0%	0%	0%	**27%**	10%	10%	*53%*
Other	0%	0%	0%	**24%**	11%	12%	*53%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Did you experience any of the following problems regarding contracts concluded during door-to-door sales or promotional excursions?* Note: For each action, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Respondents who indicated that they experienced no problems at all within the last 12 months were not shown this question. Base: all respondents to the consumer survey. N=97.

As shown in the table above, 5% of consumer respondents reported being misled by a trader's marketing statements and concluding transactions that were regretted afterwards with respect to contracts concluded via door-to-door sales or promotional excursions at least once in the past year. 5% indicated that they experienced a problem in which the trader failed to provide key information before the contract was concluded, or had a dispute with the trader and discovered they had signed up to general terms of contract that they regarded as unfair, at least once in the past year. In contrast, no consumer respondents reported encountering problems relating to sellers failing to deliver goods purchased within 30 days or the otherwise-agreed time

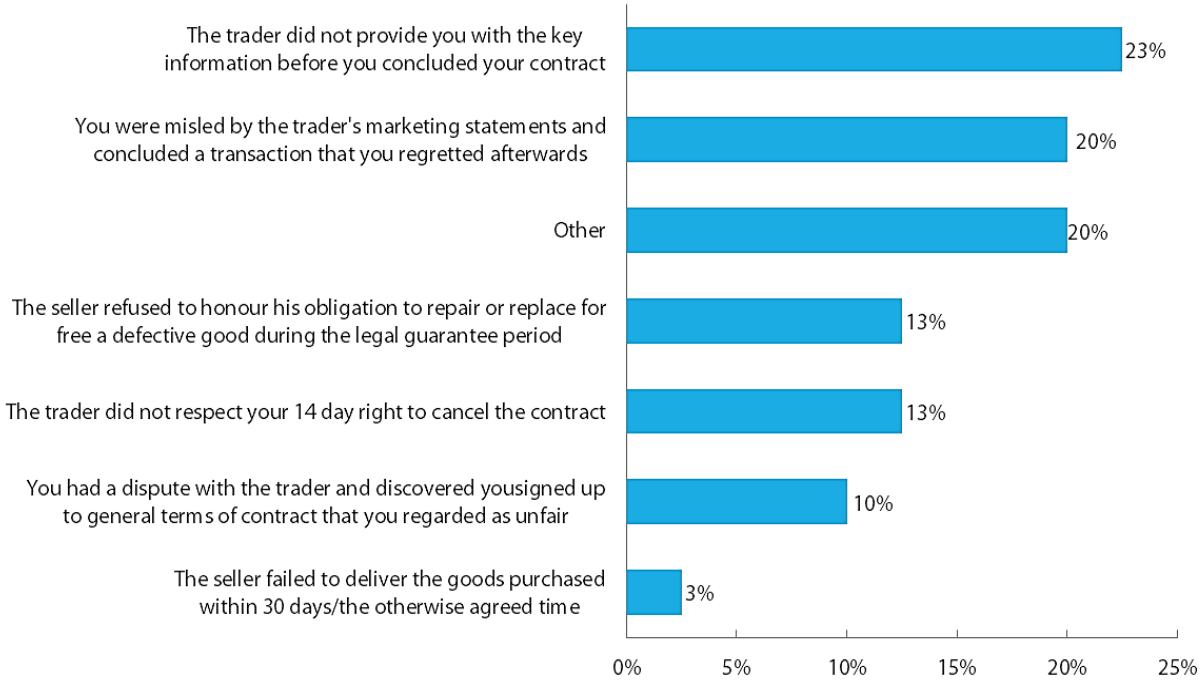
with respect to a contract concluded via door-to-door sales or promotional excursions, or "other" problems regarding such contracts at any point in the past year.

Across all sales channels except door-to-door sales, the most common problem reported by the consumer respondents is that the trader did not provide key information before conclusion of the contract. This problem was most prevalent online, with 22% of consumers reporting that they had encountered this problem when concluding a contract online within the last 12 months. The second most frequently reported problem across all sales channels except door-to-door sales is being misled by the trader's marketing statements, and this problem was also most prevalent online, with 17% of consumers reporting that they had encountered this problem when concluding a contract online within the last 12 months.

3.6. Most serious problem

Consumer respondents who reported having experienced a problem were then asked to select the most serious problem they encountered in the past 12 months. The figure below presents the ranking of problems that respondents indicated to be the most serious. Out of the 46 respondents who previously indicated having experienced a problem in the last 12 month, 41 answered this section of the questionnaire. This number is therefore used as respondent base for the following questions concerning the last most serious consumer problem.

Figure 2: Most serious problem encountered in the past 12 months



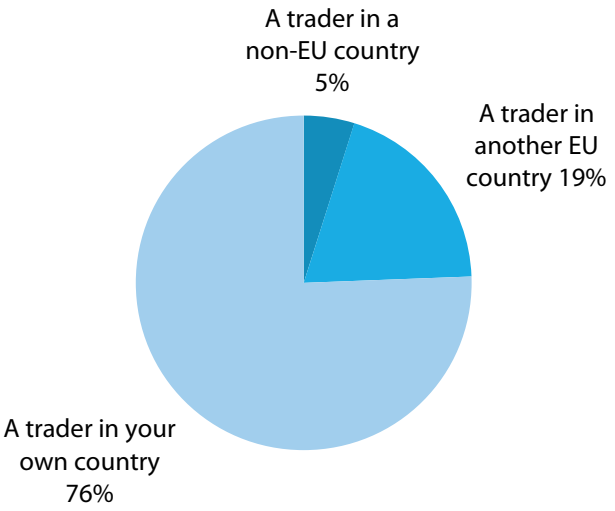
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What was the most serious problem that you encountered in the last 12 months and that you remember well?* Base: respondents who filled out the "most serious problem" section. N=40. Note that one respondent who filled out the rest of this section did not reply to this question.

As shown in the figure above, 23% of consumer respondents who filled out this section of the consumer survey indicated that their most serious problem encountered in the past 12 months as related to traders failing to provide key information prior to concluding contracts. The next most serious problems related to being misled by traders' marketing statements and subsequently concluding a transaction that was afterwards regretted (20%) and "other" problems (20%).

Eight consumers selected the "other" category for their most serious problem. Two of these problems related to data protection problems, two more related to unreliable post or delivery services, two complained about poor after sales customer service, and two complained that they were billed for extra costs.

With respect to their most serious problem, consumer respondents were then asked to elaborate on whether this problem involved a domestic trader or a trader in another country. The figure below presents the breakdown of responses.

Figure 3: Whether the most serious problem experienced by consumers involved a domestic or foreign trader

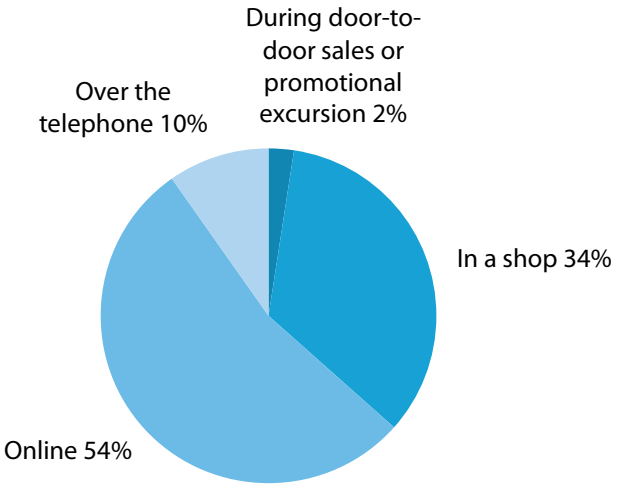


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: This problem involved:* Base: respondents who filled out the "most serious problem" section. N=41.

As shown in the figure above, 76% of consumer respondents who provided information on their most serious problem experienced their most serious problems in relation to a domestic trader, 19% experienced their most serious problem in relation to a trader in another EU country, and 5% experienced their most serious problem in dealing with a trader in a non-EU country.

Consumer respondents were next asked to indicate the sales channel in which their most serious problem occurred. The breakdown of responses is provided in the figure below.

Figure 4: Sales channel relating to the most serious problem



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: This problem concerned a contract concluded:* Base: respondents who filled out the "most serious problem" section. N=41.

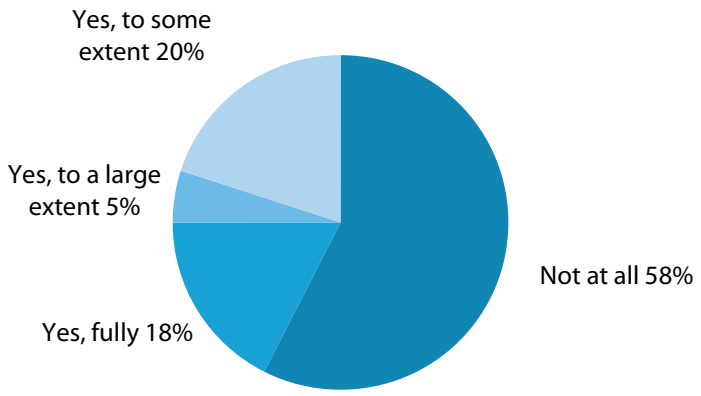
As shown in the figure above, 54% of the most serious problems experienced by consumer respondents concerned contracts concluded online, 34% related to contracts concluded in shops, 10% related to contracts concluded over the telephone, and 2% related to contracts concluded during door-to-door sales or promotional excursions.

Next, consumer respondents who experienced problems were asked to indicate the value of goods, services or digital content concerned by their most serious problem. The median[12] value reported was EUR 176. The minimum was EUR 4, which corresponded to a contract concluded online domestically, in which the respondent was misled by the trader's marketing statement and concluded a transaction that was later regretted. The maximum was EUR 30 000. The latter concerned a contract concluded in a domestic shop, in which the trader did not provide key information before the contract was concluded.

This group of consumer respondents was then asked whether they were able to solve their most serious problem. The figure below presents the breakdown of responses to this question.

[12] The median corresponds to the middle value in a series of values arranged from smallest to largest. The median is less sensitive to extreme values (outliers) than the average.

Figure 5: Whether the most serious problem was solved

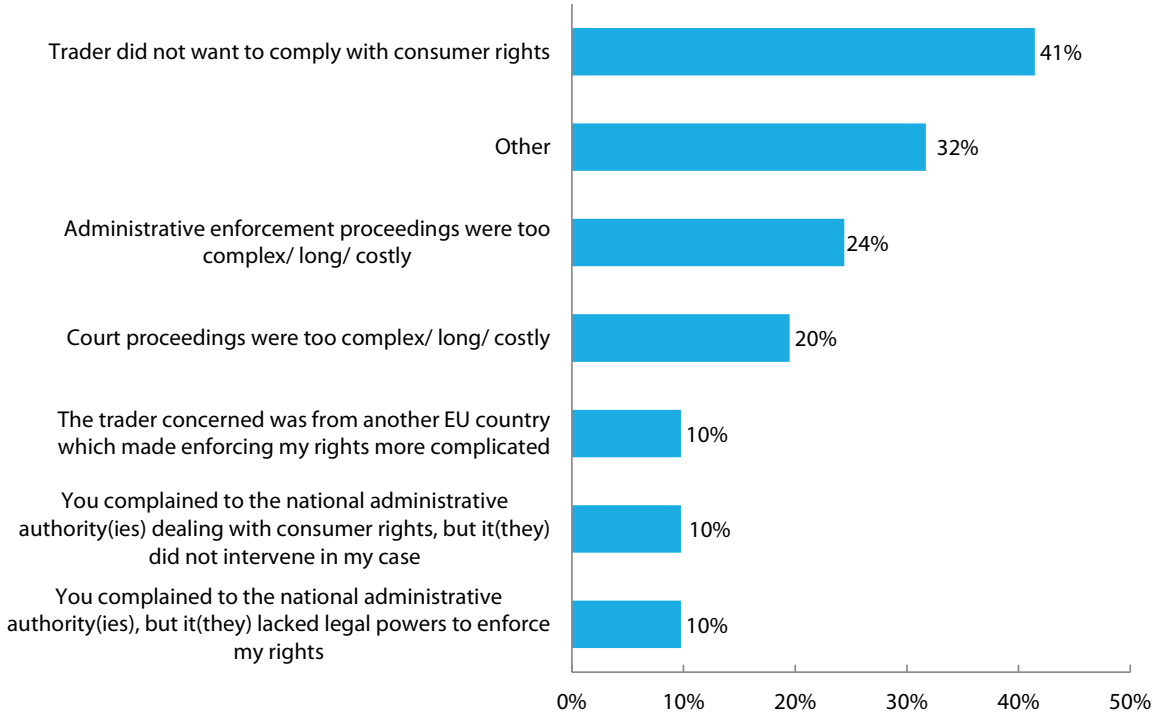


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Did you manage to solve the problem?* Base: respondents who filled out the "most serious problem" section. N=40. Note that one respondent who filled out the rest of this section did not reply to this question.

As presented in the figure above, 43% of consumer respondents who provided information on their most serious problem were able to solve their most serious problem to some extent (with 18% managing to fully solve their problem), while over half of such consumer respondents (58%) did not manage to solve their most serious problem at all.

In a final question regarding their most serious problem, consumer respondents who did not manage to fully solve their problem were asked to indicate the reason. The figure below presents the ranking of these reasons.

Figure 6: Reason consumers did not fully solve their most serious problem



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: If you did not fully succeed to solve your problem, what was the reason?* Note: Multiple responses were allowed; therefore percentages do not add up to 100%. Base: respondents who filled out the "most serious problem" section. N=41.

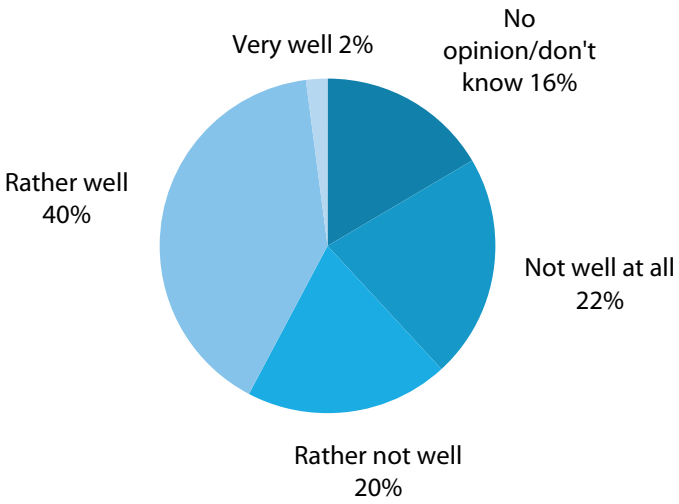
As shown in the figure above, the most common reason why respondents could not solve their most serious problem was that traders did not want to comply with consumer rights (reported by 41% of respondents).

The second most common reasons were "other" reasons selected by 32% of the respondents. As specified by respondents, among these "other" reasons were a lack of existing legal provisions to deal with the problem experienced, complications presented by the use of intermediaries, and a refusal on the part of the trader to acknowledge or address the problem. In one case, the respondent decided that the amount of money they lost was too small to be worth a complaint. In another case, a Portuguese consumer who had been charged unexpected installation costs for an electronic communications contract concluded over the telephone stated that he/she could not resolve this problem because the Consumer Rights Directive could be interpreted in such a way that the charge would be allowed.

3.7. Views on the effectiveness of national authorities and courts in protecting EU consumers

All consumer respondents (i.e. both those who had and had not experienced any problem in the last year) were finally asked to assess how well the competent national authorities implement consumer and marketing law to protect EU consumers. The figure below presents the breakdown of responses.

Figure 7: How well competent national authorities implement consumer and marketing law to protect EU consumers

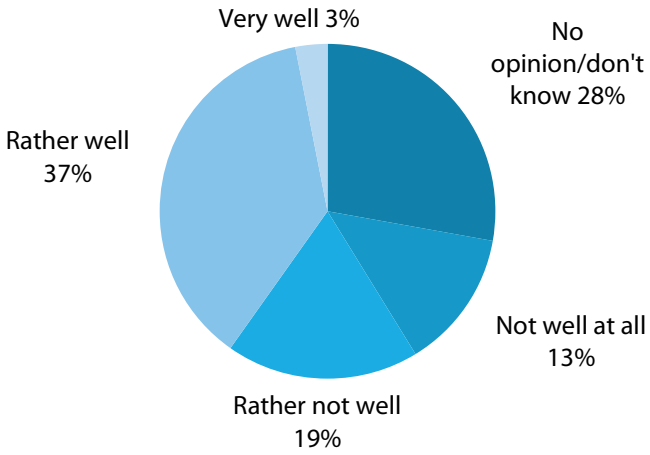


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, how well do the competent national authorities implement consumer and marketing law to protect EU consumers?* Base: all respondents to the consumer survey. N=97.

As shown in the figure above, consumer respondents were split on how well competent national authorities implement consumer and marketing law to protect EU consumers. While 42% of all consumer respondents believe that the competent national authorities implement consumer and marketing law to protect EU consumers either very well or rather well, the same share of respondents view these authorities to implement such law either rather not well or not well at all. 16% of consumer respondents selected "no opinion/don't know".

Finally, consumer respondents were asked to assess how well the national courts implement consumer and marketing law to protect EU consumers. The figure below presents the breakdown of responses.

Figure 8: How well national courts implement consumer and marketing law to protect EU consumers



Source: Public consultation for the Fitness Check of EU consumer and marketing law. Question: In your view, how well do the national courts implement consumer and marketing law to protect EU consumers? Base: all respondents to the consumer survey. N=97.

As shown in the figure above, 40% of consumer respondents believe that the national courts implement consumer and marketing law to protect EU consumers either very well or rather well. In contrast, 32% of consumer respondents view the courts to implement such law either rather not well or not well at all. The remaining 28% of consumer respondents selected “no opinion/don’t know”.

While similar proportions of the respondents replied that national authorities and national courts both implement consumer marketing law to protect consumers “very well”, “rather well”, or “rather not well”, fewer respondents selected “not well at all” when asked about national courts (13%) compared to national authorities (22%). Accordingly, the respondents were more likely to respond with “no opinion/don’t know” when asked about national courts (28%) compared to national authorities (16%).

Finally, consumer respondents were invited to provide comments regarding what should be improved in the EU consumer and marketing rules. Some examples include:

- One French consumer stated that EU Member States do not apply EU rules in the same manner, and argued that Member States should transpose these rules in a uniform way;
- A Dutch consumer stated that EU Rules regarding cancelling and returning digital products are outdated and misused by digital suppliers/providers;
- A Cypriot consumer argued that consumer law is only understood by lawyers and is not comprehensible to the average consumer;
- An Estonian consumer stated that clear steps to follow in case of a consumer problem should be easily available online, and that these complaints should be dealt with more quickly;
- A German consumer argued that rather than introducing new laws, consumers needed more effective consumer protection institutions with the capacity and resources to intervene against unfair marketing practices.

4. Results of the business survey

This section presents an overview of the responses received for the business survey, which was only displayed to respondents that indicated themselves to be companies or groups of companies (176 in total, of which 81% were individual companies and 19% were groups of companies).

4.1. Respondent characteristics

The table below presents the breakdown of business responses received by country.

Table 13: Business responses by country

Country	Total responses	% of total
Austria	1	1%
Belgium	1	1%
Bulgaria	12	7%
Cyprus	1	1%
France	4	2%
Germany	129	73%
Hungary	1	1%
Italy	3	2%
Luxembourg	1	1%
Netherlands	3	2%
Other	5	3%
Portugal	2	1%
Spain	4	2%
Sweden	1	1%
United Kingdom	8	5%
Total number	*176*	*100%*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Please indicate the country where you live, or, if you are replying on behalf of an entity, the country where it has its headquarters/place of establishment.* Base: all respondents to the business survey. N=176.

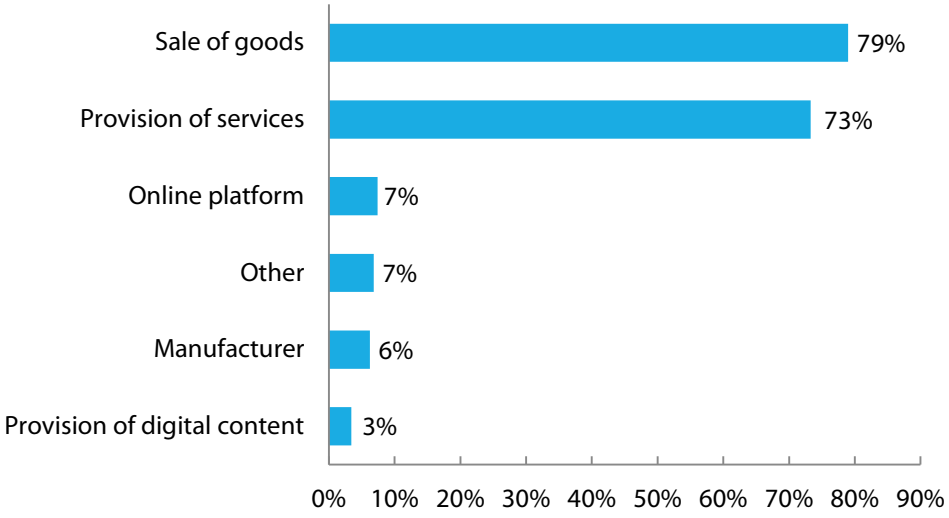
As shown in the table above, companies from 14 Member States answered the business survey. Amongst these, the most business responses were received from Germany, which represented 73% of responses.[13] The fewest responses were received

[13] A significant number of responses from Germany to the business questionnaire were prompted by at least one organised campaign in the heating oil industry. The exact influence of this campaign on the results cannot be quantified, as some respondents may have been influenced by the campaign without fully adhering to the campaign's set of recommended responses. Also note that the sample of businesses is small and based on self-selection. Results should therefore be interpreted with care and not be generalised.

from Austria, Belgium, Cyprus, Hungary, Luxembourg and Sweden, each of which represented 1% of responses.

Business respondents were first asked about their main activity. The figure below presents the distribution of main activities among business respondents.

Figure 9: Main activities of business respondents

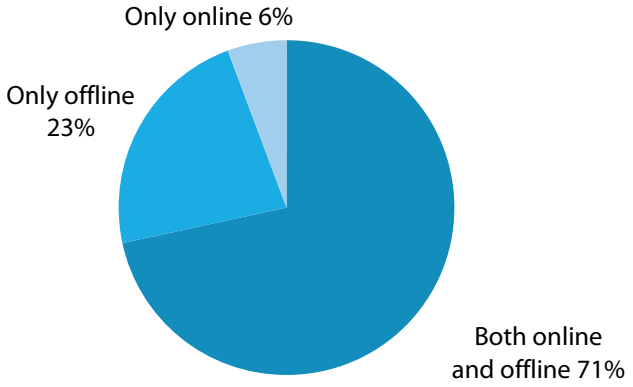


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is the core/main activity of your company/group of companies?* Note: Multiple replies were allowed; therefore percentages do not add up to 100%. Base: all respondents to the business survey. N=176.

The majority of businesses selected "sale of goods" (79%) or "provision of services" (73%) as their main activity. 7% of respondents selected "other", which included activities such as energy and hotel franchising.

Next, business respondents were asked to specify whether they carry out their activities online, offline, or via both channels. The figure below presents the breakdown of responses.

Figure 10: Online vs. offline activities of business respondents

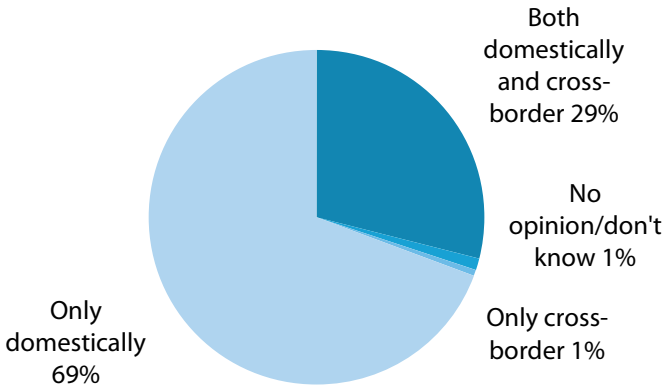


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Your company/group of companies carries out its activities:* Base: all respondents to the business survey. N=176.

As shown in the figure above, the majority (71%) of business respondents carry out their activities both online and offline. 23% of respondents carry out their activities only offline and the remaining 6% carry out their activities only online.

Business respondents were then asked whether they carry out their activities domestically, cross-border, or both. The figure below presents the breakdown of responses

Figure 11: Domestic vs. cross-border activities of business respondents



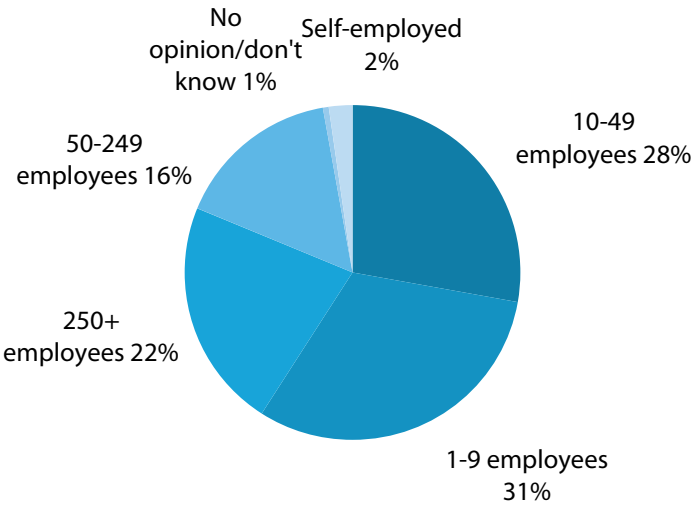
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Your company/group of companies carries out its activities:* Base: all respondents to the business survey. N=176.

As shown in the figure above, the vast majority of business respondents (69%) carry out their activities only domestically. Another 29% of respondents carry out their activities both domestically and cross-border. 1% of respondents either carry out their activities only in a cross-border context, and 1% have no opinion or do not know.

Businesses were then asked to provide an estimate of their cross-border sales as a percentage of annual turnover. Among the 30% of respondents (52 in total) that indicated that they sold cross-border, 33 were able to provide an estimate as a percentage of annual turnover, giving a median value of 12%, with a minimum value of 1% and a maximum value of 100%.

The respondents were further invited to give information about their size by number of employees.[14]

Figure 12: Size of company by number of employees



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How big is your company?* Base: all respondents to the business survey. N=176.

Approximately one-third (31%) of business respondents constituted micro enterprises (1-9 employees). Small enterprises (10-49 employees) represented 28% of business respondents, and medium enterprises (50-249 employees) represented 16%. Large enterprises (250 or more employees) constituted 22% of business respondents. The remainder consisted of the self-employed (2%) and those who did not know or had no opinion (1%).

4.2. Views on the ease of conducting business and on protection against certain practices in B2B relations

Respondents were next asked to provide their opinion regarding various statements about the ease of conducting business and protection against certain practices in business-to-business (B2B) relations. The table below provides the breakdown of responses.

[14] The survey did not include questions on other parameters of the SME definition.

Table 14: Ease of conducting business/degree of protection against misleading B2B marketing practices

Statement	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/ don't know
Businesses are well protected against unfair comparative advertising of other businesses	5%	**64%**	17%	9%	6%
Businesses are well protected against misleading marketing practices of other businesses	4%	**61%**	20%	9%	5%
Businesses can trade across the EU easily thanks to the harmonised EU consumer and marketing rules	9%	22%	6%	5%	**59%**

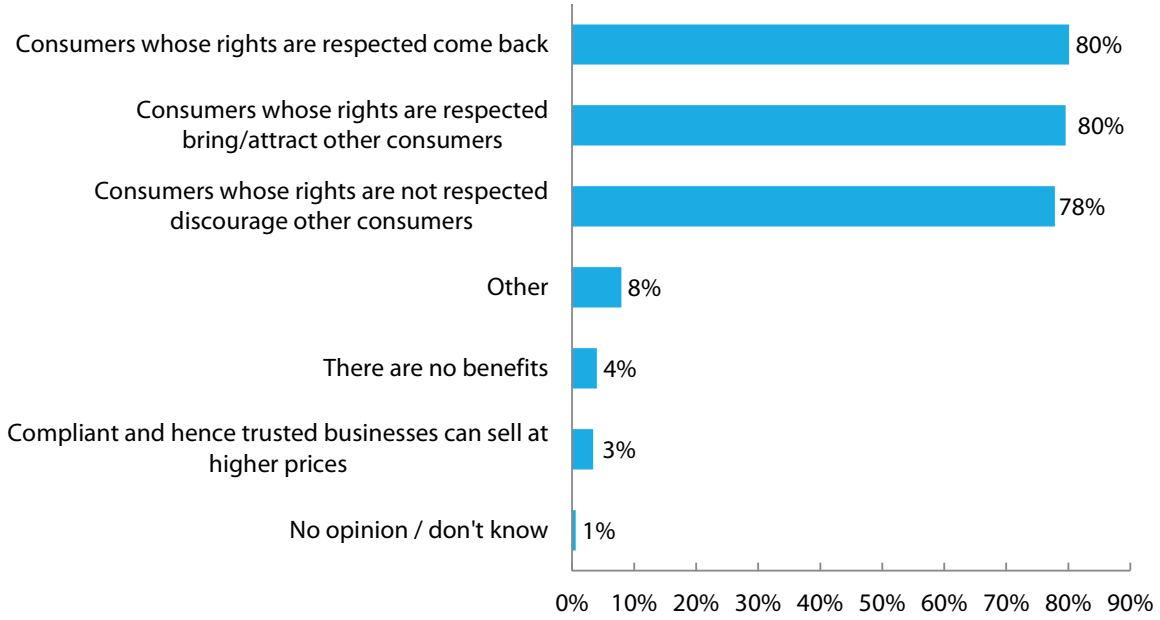
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is your opinion regarding the following statements?* Note: For each statement, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the business survey. N=176.

As shown in the table above, the majority of business respondents either strongly agree or tend to agree that businesses are well protected against unfair comparative advertising of other businesses (69%), and that businesses are well protected against misleading marketing practices of other businesses (65%). 31% of business respondents either strongly agree or tend to agree that businesses can easily trade across the EU due to harmonised EU consumer and marketing rules, while 59% of business respondents indicated that they have no opinion or do not know if this is the case.

4.3. Views on the benefits and costs of compliance

Business respondents were also asked to indicate the benefits for businesses that come from complying with EU consumer and marketing law. The figure below presents the ranking of various benefits.

Figure 13: Benefits for businesses from complying with EU consumer and marketing law



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, what are the benefits for businesses from complying with EU consumer and marketing law?* Notes: Multiple replies were allowed, therefore percentages do not add up to 100%. Base: all respondents to the business survey. N=176.

According to the figure above, "consumers whose rights are respected come back", "consumers whose rights are respected bring/attract other consumers" and "consumers whose rights are not respected discourage other consumers" were each selected by about 80% of business respondents as benefits for businesses from complying with EU consumer and marketing law. 8% of business respondents indicated "other" benefits, such as avoiding law suits or other administrative procedures, as well as comparing more favourably against competitors. Seven of the business respondents who provided details on "other" benefits noted an increase in consumer trust as an important benefit.

Business respondents were then asked to provide their most accurate estimate of the direct costs of compliance with consumer and marketing rules for their company as a percentage of annual turnover. Slightly more than one third of the business respondents (66 out of 176) provided an estimate. The table below presents an overview of the distribution.

Table 15: Estimated costs of compliance with consumer and marketing rules as a percentage of annual turnover

	0.0%	0.1%-1.0%	1.1%-5.0%	5.1%-10.0%	10.1%-20.0%	20.1%+	No response
Total responses	5	**34**	15	6	2	4	*110*
% of total	3%	**19%**	9%	3%	1%	2%	*63%*

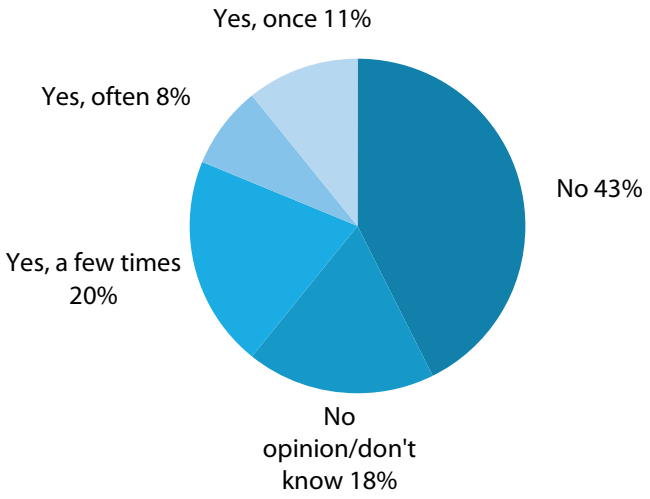
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is your most accurate estimate of the direct costs of compliance with consumer and marketing rules for your company / group of companies, e.g. costs of providing legal guarantee for goods, complying with consumer information requirements? (% of annual turnover).* Base: all respondents to the business survey. N=176.

The median value provided by the 66 business respondents that responded to the question was 1%, which was also the mode:[15] in total, 31 different business respondents entered 1% as their estimate of costs as a percentage of total turnover. Estimates ranged from a minimum value of 0% to a maximum value of 65%.

4.4. Problems experienced

The figure below presents the breakdown of whether business respondents were confronted with misleading B2B marketing in the past 12 months.

Figure 14: Whether business respondents were confronted with misleading B2B marketing



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In the past 12 months, have you been confronted with misleading B2B marketing?* Base: all respondents to the business survey. N=176.

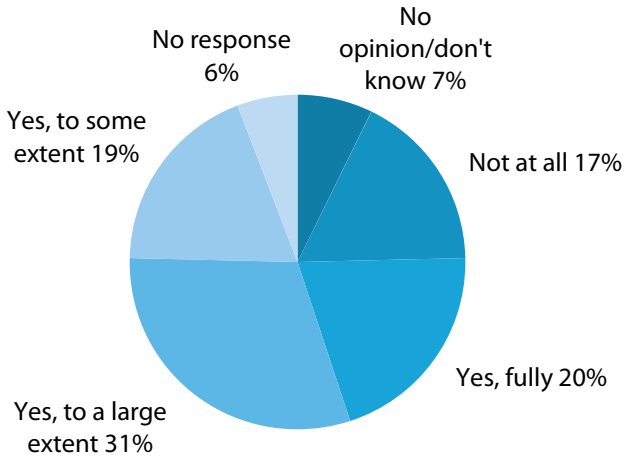
As shown in the figure above, 39% of business respondents (69 respondents) have been confronted with misleading B2B marketing at least once in the past year. 43% of

[15] The mode is the value that appears most often in a set of data.

business respondents (75 respondents) have not been confronted with such marketing, and the remaining 18% either have no opinion or do not know.

Business respondents who experienced a problem were next asked whether they were able to solve their last problem regarding misleading B2B marketing in a satisfactory way. The figure below presents the distribution of answers.

Figure 15: Whether business respondents were able to satisfactorily solve their problem regarding misleading B2B marketing

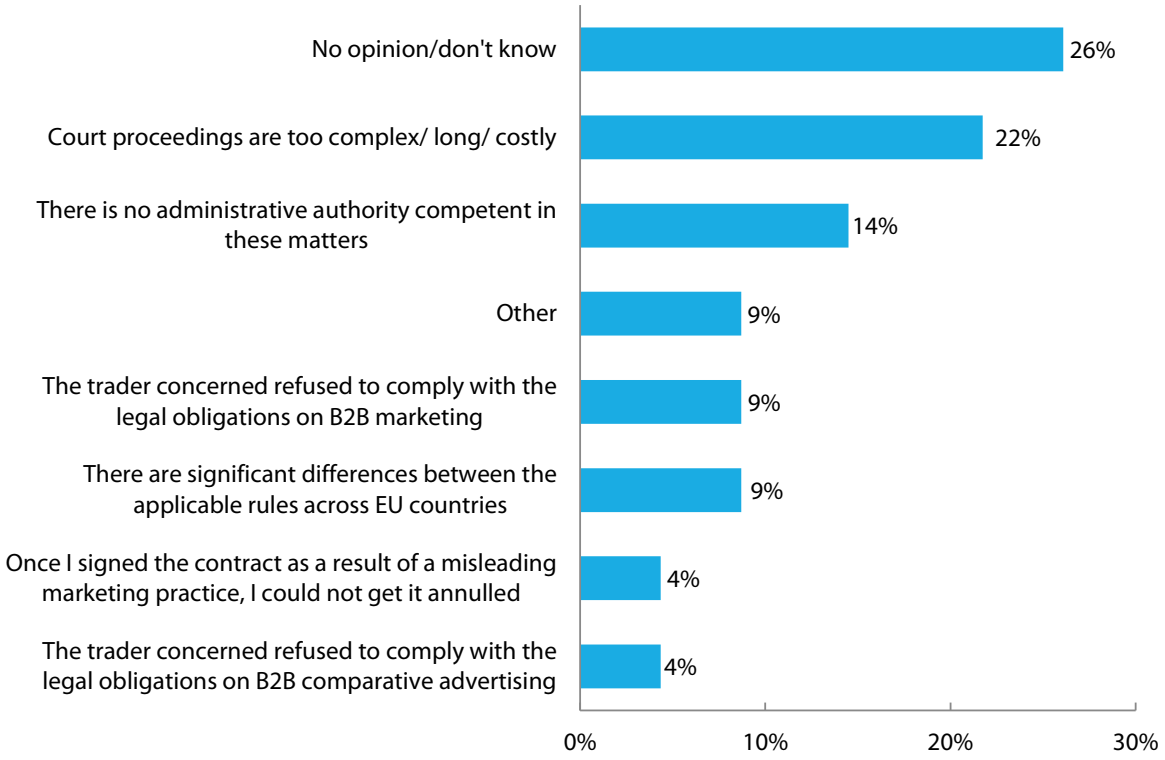


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: Did you manage to solve your last problem regarding the misleading B2B marketing in a satisfactory way?* Base: business survey respondents that encountered a problem with misleading B2B marketing. N=69.

20% of business respondents who experienced a problem with misleading B2B marketing managed to fully solve their problem. Half (50%) were able to partially solve their problem, while 17% could not solve their problem at all.

The figure below presents the various reasons due to which business respondents who experienced problems regarding misleading B2B marketing did not fully solve their problems.

Figure 16: Reasons why business respondents did not fully solve their problem regarding misleading B2B marketing



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: If you did not fully succeed at solving your problem, what was the reason?* Note: Multiple replies were allowed and some respondents did not provide a reason; therefore the percentages do not add up to 100%. Base: business survey respondents that encountered a problem with misleading B2B marketing. N=69.

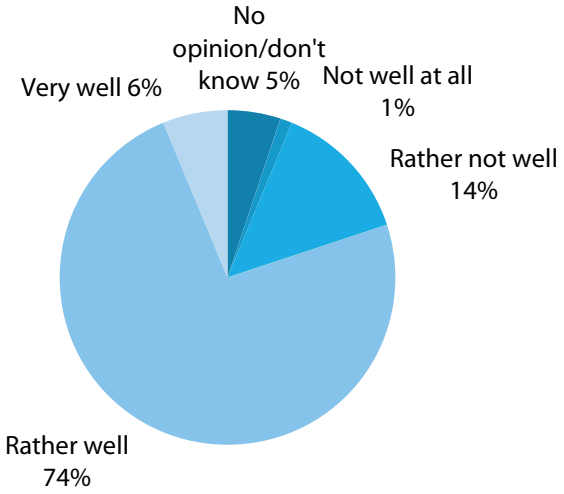
About one-quarter (26%) of business respondents who had problems indicated that they had no opinion or did not know why they did not fully solve their problem. The next most selected reason for not fully solving their problem was "court proceedings are too complex/long/costly" (22%). The least-frequently selected reasons consisted of "once I signed the contract as a result of a misleading marketing practice, I could not get it annulled" (4%) and "the trader concerned refused to comply with the legal obligations on B2B comparative advertising (4%).

Four business respondents that selected "other" problems provided additional details: two stated that the other trader was able to somehow evade legal responsibility, in one case because the other trader was based in the United States and unwilling to comply with European consumer law; one indicated that their case was still ongoing; and one stated that existing European law was insufficient in the area concerned (online travel agencies).

4.5. Views about whether businesses respect EU consumer rights

All business respondents were asked to assess how well businesses respect EU consumer rights. The figure below displays the distribution of assessments.

Figure 17: How well businesses respect EU consumer rights



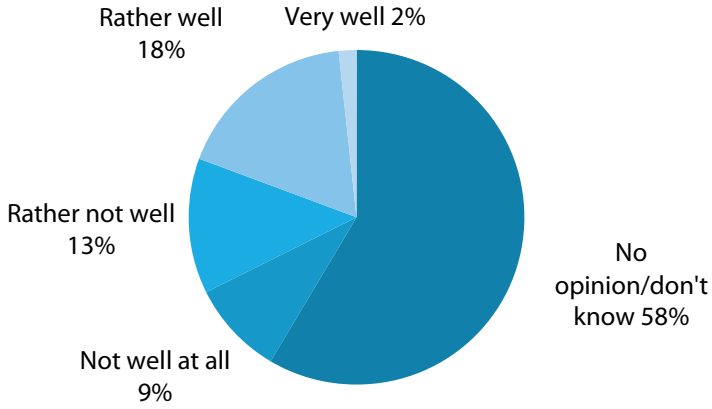
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, how well do businesses respect EU consumer rights?* Base: all respondents to the business survey. N=176.

The majority of business respondents (80%) indicated that businesses respect EU consumer rights very well or rather well. 15% believe that businesses do not respect EU consumer rights well, and 5% had no opinion or did not know.

4.6. Views on the effectiveness of national authorities and courts in protecting EU businesses and consumers

Business respondents were next asked to assess how well the competent national authorities implement consumer and marketing rules to protect EU businesses against misleading marketing. The figure below presents the breakdown of responses.

Figure 18: How well competent national authorities implement consumer and marketing rules to protect EU businesses against misleading marketing

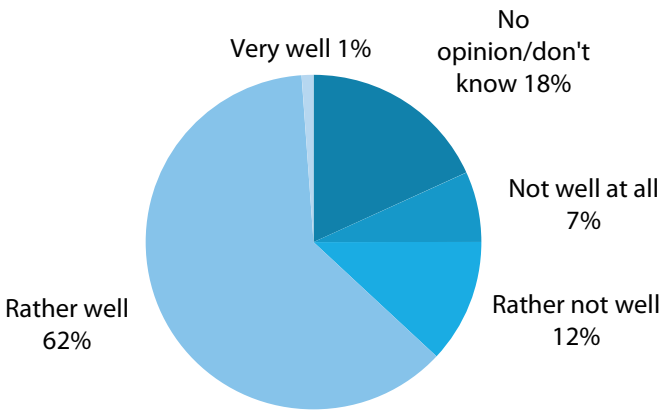


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, how well do the competent national authorities implement consumer and marketing rules to protect EU businesses against misleading marketing?* Base: all respondents to the business survey. N=176.

As shown in the figure above, 58% of business respondents indicated that they have no opinion or do not know how well the competent national authorities implement consumer and marketing rules to protect EU businesses against misleading marketing. 20% of business respondents believe that the competent national authorities do so either very well or rather well, whereas another 22% believe that the competent national authorities do so either rather not well or not well at all.

Next, business respondents were asked to assess how well the national courts implement consumer and marketing rules to protect EU businesses against misleading marketing. The figure below presents the breakdown of responses.

Figure 19: How well national courts implement consumer and marketing rules to protect EU businesses against misleading marketing



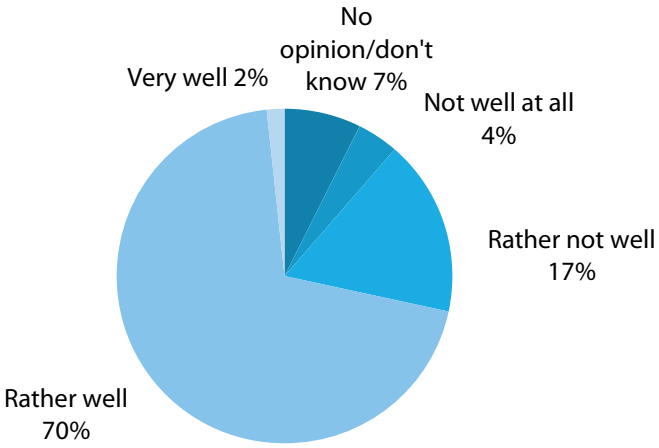
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, how well do the national courts implement consumer and marketing rules to protect EU businesses against misleading marketing?* Base: all respondents to the business survey. N=176.

As shown in the figure above, 63% of business respondents feel that national courts implement consumer and marketing rules to protect EU businesses against misleading marketing either very well or rather well. 19% of business respondents feel that

national courts do so either rather not well or not well at all, and 18% either have no opinion or do not know.

Business respondents were then asked to assess how well the competent national authorities implement consumer and marketing rules to protect EU consumers. The figure below presents the breakdown of responses.

Figure 20: How well competent national authorities implement consumer and marketing rules to protect EU consumers

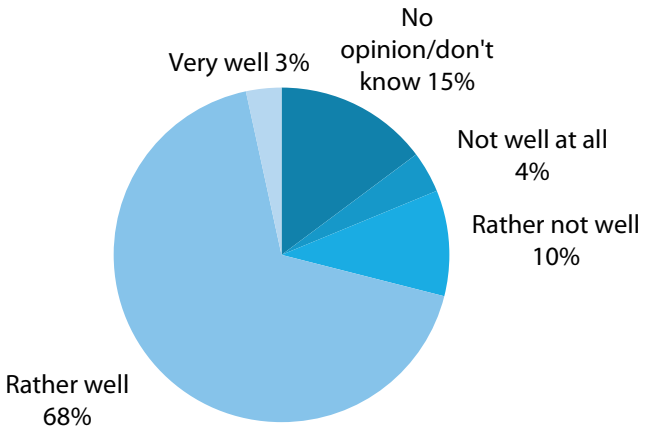


Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, how well do the competent national authorities implement consumer and marketing rules to protect EU consumers?* Base: all respondents to the business survey. N=176.

72% of business respondents feel that the competent national authorities implement consumer and marketing rules either very well or rather well. Another 21% of business respondents indicated that the competent national authorities do so either rather not well or not well at all, and the remaining 7% either had no opinion or did not know.

Finally, business respondents were asked to assess how well the national courts implement consumer and marketing rules to protect EU consumers. The figure below presents the breakdown of responses.

Figure 21: How well national courts implement consumer and marketing rules to protect EU consumers



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, how well do the national courts implement consumer and marketing rules to protect EU consumers?* Base: all respondents to the business survey. N=176.

As shown in the figure above, 71% of business respondents view the national courts as implementing consumer and marketing rules either very well or rather well. Another 14% of business respondents indicated that the national courts do so either rather not well or not well at all, and 15% either had no opinion or did not know.

Overall, businesses are more positive about the effectiveness of national authorities and national courts in protecting consumers than the consumers themselves (see Figures 7 and 8). About 40% of consumers consider both national authorities and national courts to implement consumer and marketing rules "rather well" or "very well", compared to more than 70% of businesses. Businesses were also less likely to respond with "no opinion/don't know" in both cases, with 7% of businesses answering "no opinion/don't know" regarding the effectiveness of national authorities (compared to 16% of consumers) and 15% answering "no opinion/don't know" regarding the effectiveness of national courts (compared to 28% of consumers).

Businesses were then invited to provide comments regarding what should be improved in the EU consumer marketing rules. Some examples include:[16]

- One Belgian business commented on the fragmented nature of the EU market for digital goods/content/services that poses problems for both consumers and businesses, and suggested implementing stricter internal market guidelines or full harmonisation of rules in this area;
- A German entrepreneur argued that the fees associated with *Abmahnungen* (warnings) in response to breaches of EU consumer rules (which are not always intentional) should be capped, so that small businesses are not bankrupted as a result;
- Two businesses in the hospitality/travel industry, a car rental service and hotel chain both based in the UK, wrote that existing legislation was

[16] Additionally, several comments were received in the framework of the aforementioned organised campaign from German producers of heating oil, all arguing that the right of withdrawal for distance sales threatened the stability of their business, as the price of oil is determined on the commodities market and has the potential to change significantly from day to day.

sufficient, but that weak enforcement of these rules puts compliant businesses at a competitive disadvantage to non-compliant businesses;

- A business in France argued that online consumers do not benefit from the same protections as traditional in-store consumers and suggested that consumers may benefit from a certification system to combat fake "consumer" reviews on online rating websites. The business also criticised the lack of transparency used to rank businesses in online comparison tools as well as the practice of IP address tracking in the travel industry to raise prices for consumers based on how often they consult the booking website.

5. Results of the full questionnaire

This section presents an overview of the responses received for the full questionnaire. This was the default questionnaire for all respondents other than consumers and businesses. Consumer respondents and business respondents could also fill it in after completing their respective short questionnaires.

5.1. Respondent characteristics

The table below presents the breakdown of responses to the full questionnaire received by country and by stakeholder category.

Table 16: Responses to the full questionnaire by country and stakeholder category

MS	Consumers	Businesses	Public authorities	Consumer associations	Business associations	Other	Total
AT	0	1	1	1	5	1	*9*
BE	1	1	2	3	31	4	*42*
BG	0	5	1	0	0	0	*6*
HR	0	0	1	0	0	0	*1*
CY	1	0	1	0	0	0	*2*
CZ	0	0	2	2	0	0	*4*
DK	0	0	2	0	4	1	*7*
EE	1	0	2	0	1	1	*5*
FI	0	0	2	1	4	0	*7*
FR	3	4	1	1	4	2	*15*
DE	19	7	0	4	19	12	*61*
EL	0	0	0	0	0	1	*1*
HU	1	0	0	0	0	0	*1*
IE	0	0	0	0	1	1	*2*
IT	1	2	0	1	1	0	*5*
LV	0	0	2	0	0	0	*2*
LT	0	0	1	0	0	0	*1*
LU	0	1	0	0	0	0	*1*
MT	0	0	1	0	0	0	*1*
NL	1	1	1	0	1	1	*5*
PL	0	5	1	0	2	1	*9*
PT	0	0	0	0	1	0	*1*
RO	3	1	1	1	0	0	*6*
SK	3	0	1	1	0	0	*5*
SI	0	0	1	1	1	1	*4*
ES	0	0	0	1	0	0	*1*
SE	2	3	1	0	2	1	*9*
UK	0	1	1	0	2	0	*4*
Other	0	6	2	3	7	2	*20*
Total	*36*	*38*	*28*	*20*	*86*	*29*	*237*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. Questions: *Question: Are you replying as/on behalf of: / Please indicate the country where you live, or, if you are replying on behalf of an entity, the country where it has its headquarters/place of establishment*.

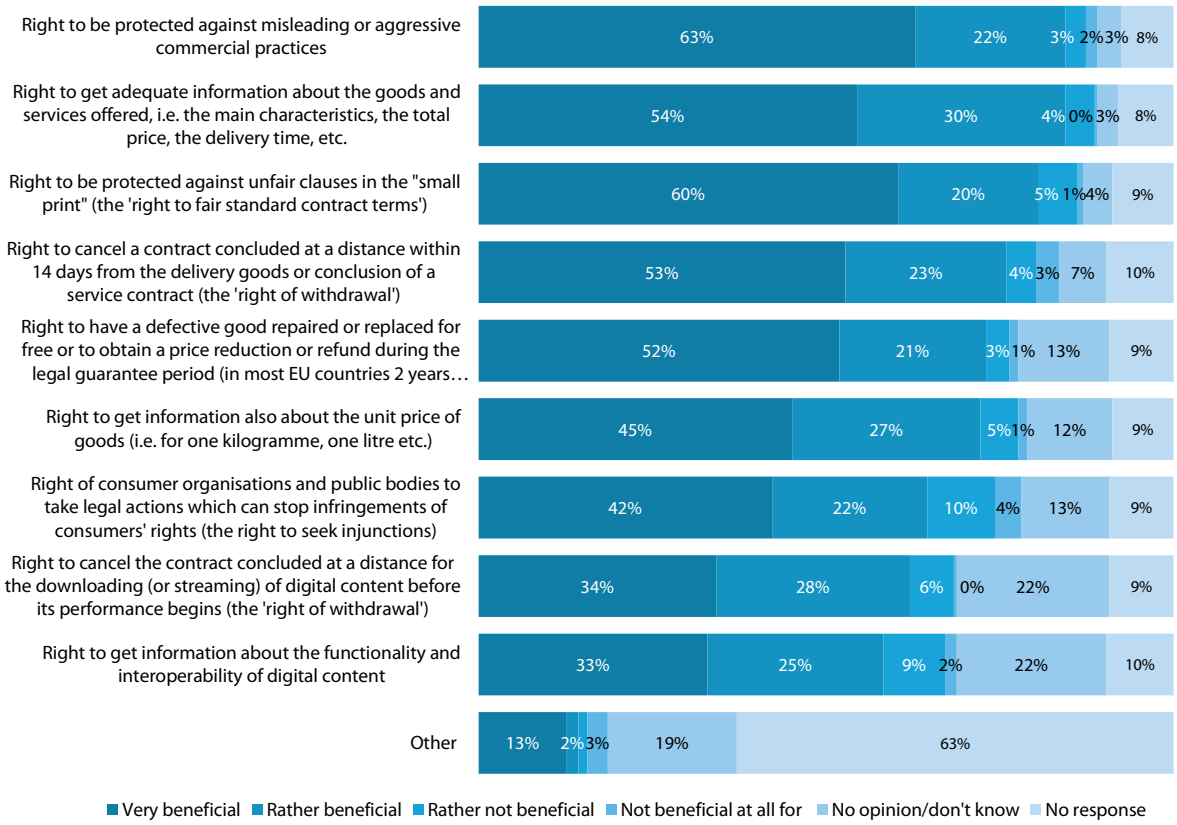
As shown in the table above, responses were received from all 28 Member States. The largest number of responses was received from Germany, with 61 respondents comprising 26% of the total survey responses. The most common respondent

category were business associations, with 86 respondents, which made up more than one-third (36%) of the total survey responses.

5.2. Views on the benefits of EU consumer and marketing rules for consumers

In the first section of the full questionnaire of the public consultation, respondents were asked to assess various EU consumer and marketing rules with respect to their benefit to consumers. The figure below presents the results of this assessment of benefit across all respondents.

Figure 22: Extent to which various EU consumer and marketing rules are beneficial to consumers



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, the rights that are viewed by the most respondents as beneficial are the "right to be protected against misleading or aggressive commercial practices" and the "right to get adequate information about the goods and services offered" (both viewed by 85% of respondents as either "very beneficial" or "rather beneficial"). Among the listed rights, the one that was viewed by the fewest respondents as beneficial was the "right to get information about the functionality and interoperability of digital content" (58%).

Respondents were also given the option to submit comments, in particular regarding other rights under EU consumer and marketing law that they considered to be beneficial for consumers. In their comments, several respondents insisted on the need for better or more consistent enforcement of existing rights. A few respondents pointed to the following other rights that they considered to be beneficial: rights under

sector-specific legislation (especially in passenger transport services), access to alternative dispute resolution, rights regarding the allocation of the delivery risk to the trader, the right to contact the trader by telephone at the local rate, and the right to terminate the contract if no delivery has taken place within 30 days.

The table below presents the breakdown of the assessment of consumer benefits with respect to the right to be protected against misleading or aggressive commercial practices by respondent category.

Table 17: Extent to which the right to be protected against misleading or aggressive commercial practices is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**64%**	19%	6%	6%	6%	0%
Businesses	**61%**	24%	3%	3%	0%	11%
Public authorities	**68%**	18%	0%	0%	4%	11%
Consumer associations	**90%**	5%	0%	0%	5%	0%
Business associations	**58%**	23%	3%	0%	3%	12%
Other	**55%**	31%	3%	3%	3%	3%
Total %	***63%***	*22%*	*3%*	*2%*	*3%*	*8%*
Total number	*149*	*51*	*7*	*4*	*8*	*18*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Overall, all respondent categories found the right to be protected against misleading or aggressive commercial practices to be either very beneficial or rather beneficial to consumers. At least 80% of public authorities, consumer associations, business respondents and business associations indicated that this right is beneficial to consumers.

The table below presents the breakdown of the assessment of consumer benefits in terms of the right to obtain adequate information about goods and services offered by respondent category.

Table 18: Extent to which the right to obtain adequate information about goods and services offered is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**67%**	25%	6%	0%	3%	0%
Businesses	39%	**42%**	8%	0%	0%	11%
Public authorities	**68%**	18%	0%	0%	4%	11%
Consumer associations	**95%**	5%	0%	0%	0%	0%
Business associations	**42%**	37%	3%	1%	5%	12%
Other	**55%**	28%	7%	0%	3%	7%
Total %	***54%***	*30%*	*4%*	*0%*	*3%*	*8%*
Total number	*129*	*71*	*10*	*1*	*7*	*19*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the large majority in each respondent category found the right to obtain adequate information about goods and services to be either very beneficial or rather beneficial to consumers. Specifically, 100% of consumer associations found this right to be beneficial. Public authorities and consumer respondents were the next most positive categories, with 86% of the former and 92% of the latter indicating this right to be beneficial. It is notable that business respondents and business associations were also very positive, with 81% of business respondents and 79% of business organisations considering this right to be beneficial to consumers.

The table below presents the breakdown of the assessment of consumer benefit with respect to the right to be protected unfair clauses in the "small print" by respondent category.

Table 19: Extent to which the right to be protected against unfair clauses in the small print is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**75%**	11%	8%	3%	0%	3%
Businesses	**55%**	24%	8%	3%	0%	11%
Public authorities	**68%**	11%	4%	0%	7%	11%
Consumer associations	**100%**	0%	0%	0%	0%	0%
Business associations	**44%**	28%	5%	0%	9%	14%
Other	**62%**	28%	7%	0%	0%	3%
Total %	***60%***	*20%*	*5%*	*1%*	*4%*	*9%*
Total number	*143*	*48*	*13*	*2*	*10*	*21*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As displayed in the table above, consumer associations unanimously agree that this right is very beneficial to consumers. The majority (more than 70%) of all other respondent categories were also in agreement that the right to be protected against unfair clauses in the small print is beneficial to consumers.

The table below presents the breakdown of the assessment of consumer benefits with respect to the right to cancel a contract concluded at a distance with 14 days from the delivery of goods or conclusion of a service contract (i.e. the right of withdrawal) by respondent category.

Table 20: Extent to which the right of withdrawal is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**64%**	22%	8%	3%	0%	3%
Businesses	**42%**	29%	8%	5%	5%	11%
Public authorities	**71%**	11%	0%	0%	7%	11%
Consumer associations	**100%**	0%	0%	0%	0%	0%
Business associations	**38%**	24%	2%	6%	13%	16%
Other	**45%**	41%	7%	0%	3%	3%
Total %	***53%***	*23%*	*4%*	*3%*	*7%*	*10%*
Total	*125*	*55*	*10*	*8*	*16*	*23*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Once again, the majority of all respondent categories agree that the right of withdrawal is either very beneficial or rather beneficial to consumers. 100% of consumer associations found this right to be beneficial. This category was followed by consumers and other organisations, 86% of which considered this right to be beneficial to consumers, business respondents (71%), and finally business associations (62%).

The table below presents the breakdown of the assessment of consumer benefits with respect to the right to have a defective good repaired or replaced for free or to obtain a price reduction or refund during the legal guarantee period by respondent category.

Table 21: Extent to which the right to have a defective good repaired or replaced for free or to obtain a price reduction or refund during the legal guarantee period is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**69%**	25%	6%	0%	0%	0%
Businesses	**55%**	21%	0%	3%	11%	11%
Public authorities	**57%**	18%	0%	0%	14%	11%
Consumer associations	**80%**	5%	10%	5%	0%	0%
Business associations	**34%**	23%	1%	1%	24%	16%
Other	**55%**	24%	10%	0%	7%	3%
Total %	***52%***	*21%*	*3%*	*1%*	*13%*	*9%*
Total number	*123*	*50*	*8*	*3*	*31*	*22*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of all respondent categories agree that the right to have defective goods repaired, replaced or refunded to be very or rather beneficial to consumers. Consumer respondents agree the most strongly, with 94% of this category indicating this right to be beneficial to consumers. Following consumers, 85% of consumer associations and 79% of other organisations also found this right to be beneficial. 76% of individual businesses responded that this right was beneficial to consumers compared to 57% of business associations.

The table below presents the breakdown of the assessment of consumer benefits with respect to the right to obtain information about the unit price of goods by respondent category.

Table 22: Extent to which the right to obtain information about the unit price of goods is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**67%**	22%	6%	6%	0%	0%
Businesses	32%	**34%**	11%	0%	13%	11%
Public authorities	**50%**	32%	0%	0%	7%	11%
Consumer associations	**90%**	5%	0%	0%	5%	0%
Business associations	**33%**	23%	7%	1%	21%	15%
Other	38%	**45%**	3%	0%	10%	3%
Total %	***45%***	*27%*	*5%*	*1%*	*12%*	*9%*
Total number	*107*	*64*	*13*	*3*	*29*	*21*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of all respondent categories agree that the right to obtain information about the unit price of goods is very or rather beneficial to consumers. For example, 95% of consumer associations indicated this right to be beneficial to consumers, with 89% of consumers and 82% of public authorities also indicating as such.

The table below presents the breakdown of the assessment of consumer benefits with respect to the right of consumer organisations and public bodies to take legal actions which can stop infringements of consumer's rights (the right to seek injunctions) by respondent category.

Table 23: Extent to which the right to seek injunctions is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**72%**	8%	8%	8%	3%	0%
Businesses	26%	**32%**	18%	5%	5%	13%
Public authorities	**54%**	25%	4%	0%	7%	11%
Consumer associations	**85%**	10%	0%	0%	5%	0%
Business associations	21%	**28%**	12%	2%	22%	15%
Other	**48%**	17%	7%	7%	17%	3%
Total %	***42%***	*22%*	*10%*	*4%*	*13%*	*9%*
Total number	*100*	*53*	*23*	*9*	*30*	*22*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As displayed in the table above, consumer associations were close to unanimous in their agreement, with 95% of these respondents indicating that this right is very or rather beneficial to consumers. Another 80% of consumers and 79% of public authorities agree that this right is beneficial to consumers. 58% of businesses and 49% of business associations also agree that the right to seek injunctions was beneficial to consumers, although 23% of businesses and 14% of business associations responded that this right was “rather not beneficial” or “not at all beneficial”.

The table below presents the breakdown of the assessment of consumer benefits with respect to the right to cancel contracts concluded at a distance for downloading or streaming of digital content before its performance begins by respondent category.

Table 24: Extent to which the right to cancel contracts concluded at a distance for downloading or streaming of digital content before its performance begins is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**44%**	36%	11%	0%	8%	0%
Businesses	26%	**39%**	5%	3%	16%	11%
Public authorities	**39%**	36%	0%	0%	14%	11%
Consumer associations	**90%**	5%	0%	0%	5%	0%
Business associations	17%	19%	9%	0%	**38%**	16%
Other	**38%**	**38%**	3%	0%	17%	3%
Total %	***34%***	*28%*	*6%*	*0%*	*22%*	*9%*
Total number	*81*	*66*	*15*	*1*	*52*	*22*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

The majority of most respondent categories agree that this right is either very or rather beneficial to consumers—for example, 95% of consumer associations, 80% of consumer respondents and 75% of public authorities indicated as such. In comparison, 36% of business associations indicated that this right is beneficial to consumers, with 9% of this category indicating this right to be rather not beneficial, and more than half (54%) either not responding or selecting “no opinion/don’t know”.

The table below presents the breakdown of the assessment of consumer benefits with respect to the right to obtain information about the functionality and interoperability of digital content by respondent category.

Table 25: Extent to which the right to obtain information about the functionality and interoperability of digital content is beneficial to consumers (by category of respondent)

Respondent category	Very beneficial	Rather beneficial	Rather not beneficial	Not beneficial at all	No opinion/don't know	No response
Consumers	**42%**	19%	14%	8%	14%	3%
Businesses	24%	**26%**	13%	0%	**26%**	11%
Public authorities	**50%**	29%	0%	0%	11%	11%
Consumer associations	**90%**	5%	0%	0%	5%	0%
Business associations	16%	26%	9%	0%	**33%**	16%
Other	28%	**41%**	10%	3%	14%	3%
Total %	***33%***	*25%*	*9%*	*2%*	*22%*	*10%*
Total number	*78*	*60*	*21*	*4*	*51*	*23*

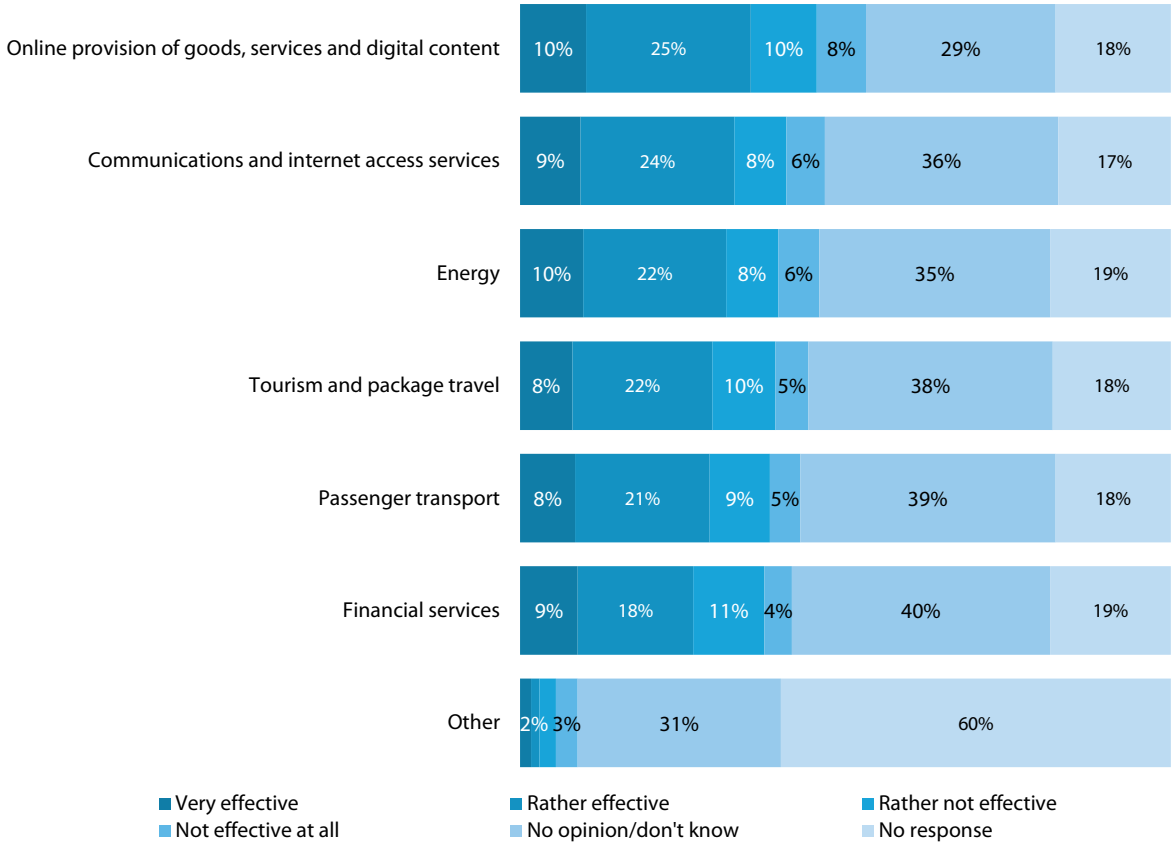
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, to what extent are the following EU consumer and marketing rules beneficial to consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of most respondent categories believe that the right to obtain information about the functionality and interoperability of digital content is either very beneficial or rather beneficial to consumers. 95% of consumer associations and 79% of public authorities indicated that this right is beneficial to consumers, while 50% of business respondents and less than half of business associations (42%) were of the same opinion. 61% of consumers considered this right to be beneficial.

5.3. Views on the effectiveness of injunctions in protecting consumers' rights

Next, respondents were asked about their views on the effectiveness of injunctions taken by consumer organisations and public bodies to stop infringements of consumers' rights in various economic sectors. The figure below presents the distribution of responses across all respondent categories.

Figure 23: Effectiveness of injunctions across economic sectors in protecting consumers' rights



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, views on the effectiveness of injunctions with respect to protecting consumer rights are somewhat mixed across all economic sectors. For example, injunctions are viewed as either very effective or rather effective by 35% of respondents for the online provision of goods, services and digital content, 33% of respondents for communications and internet access services, and 32% of respondents for energy. In all sectors except the online provision of goods, services and digital content, more than half of respondents either did not respond or selected "no opinion/don't know".

Respondents were invited to provide additional comments to explain their response or give further details if they had selected an answer for the "other" category. A wide range of comments were provided, with most of the relevant comments falling under the following general themes:

- Many respondents, generally consumer associations and public authorities, noted that injunctions were not at all or rarely used in their jurisdictions. The most common reasons given were the cost, length, and uncertainty of the procedure (particularly for cross-border infringements), although some respondents also noted that other national enforcement tools were preferred in their country;
- While several business and business association respondents commented that they considered injunctions to be effective, some business respondents

in Austria and Germany complained about being confronted with large fines and the threat of injunction actions without warning;

- Respondents in Austria, Belgium and the UK wrote that injunctions were often difficult to use against rogue traders, particularly in an online context, where the trader can more easily disguise their identity and location or simply shut down and open up under another name;
- In Austria, Belgium, and Germany, some respondents noted that injunctions were limited in their effectiveness as they did not have wide enough effects to systematically change the behaviour of other traders;
- Respondents in Austria, Germany, and Italy commented that injunctions are particularly effective against unfair contract terms. An Italian consumer organisation also wrote that they had successfully used injunction proceedings in the area of product safety.

The table below presents the breakdown of the assessment of the effectiveness of injunctions to stop infringements of consumer rights with respect to the online provision of goods, services and digital content by respondent category.

Table 26: Effectiveness of injunctions: online provision of goods, services and digital content (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion/ don't know	No response
Consumers	6%	**33%**	17%	22%	17%	6%
Businesses	13%	21%	16%	11%	**26%**	13%
Public authorities	7%	21%	14%	4%	25%	**29%**
Consumer associations	20%	**25%**	15%	5%	20%	15%
Business associations	8%	19%	5%	2%	**42%**	24%
Other	14%	**45%**	3%	7%	21%	10%
Total %	*10%*	*25%*	*10%*	*8%*	***29%***	*18%*
Total number	*24*	*60*	*24*	*18*	*69*	*42*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of "other" respondents (59%) found injunctions to be very or rather effective with respect to the online provision of goods, service and digital content. In second place, slightly less than half (45%) of consumer associations found injunctions to be effective in protecting consumer rights in this sector. Less than half of consumer respondents (39%), business respondents (34%), public authorities (28%) and business associations (27%) found injunctions to be effective in protecting consumer rights this sector, with significant percentages of each of the latter categories either not responding or selecting "no opinion/don't know".

The table below presents the breakdown of the assessment of the effectiveness of injunctions to stop infringements of consumer rights with respect to communications and internet access services by respondent category.

Table 27: Effectiveness of injunctions: communications and internet access services (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion/ don't know	No response
Consumers	8%	**28%**	19%	22%	17%	6%
Businesses	8%	26%	11%	3%	**39%**	13%
Public authorities	4%	29%	11%	4%	**32%**	21%
Consumer associations	20%	**30%**	5%	10%	20%	15%
Business associations	7%	14%	3%	0%	**50%**	26%
Other	17%	**34%**	3%	7%	28%	10%
Total %	*9%*	*24%*	*8%*	*6%*	***36%***	*17%*
Total number	*22*	*56*	*19*	*14*	*85*	*41*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, about half of consumer associations (50%) and "other" respondents (51%) indicated that they found injunctions to be either "very" or "rather effective" in protecting consumers' rights in the communications and internet access services sector. 36% of consumers indicated that they found injunctions in this area to be either "very" or "rather effective". 34% of businesses and 21% of business associations found injunctions to be effective in this sector. More than half of business associations, businesses, and public authorities either did not respond or selected "no opinion/don't know".

The table below presents the breakdown of the assessment of the effectiveness of injunctions to stop infringements of consumer rights with respect to energy by respondent category.

Table 28: Effectiveness of injunctions: energy (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion/ don't know	No response
Consumers	6%	**25%**	22%	19%	19%	8%
Businesses	5%	26%	13%	0%	**39%**	16%
Public authorities	7%	**32%**	7%	4%	29%	21%
Consumer associations	15%	25%	10%	5%	**30%**	15%
Business associations	7%	9%	5%	0%	**55%**	24%
Other	17%	28%	3%	7%	**34%**	10%
Total %	*8%*	*21%*	*9%*	*5%*	***39%***	*18%*
Total number	*20*	*49*	*22*	*11*	*93*	*42*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

45% of "other" organisations, 40% of consumer associations, and 39% of public authorities believe that injunctions are very or rather effective in protecting consumer rights in the energy sector. 31% of consumers responded that they considered injunctions to be effective in this sector. 31% of businesses and 16% of business associations considered injunctions to be effective in this sector, while more than half of businesses and business associations either did not respond or selected "no opinion/don't know".

The table below presents the breakdown of the assessment of the effectiveness of injunctions to stop infringements of consumer rights with respect to tourism and package travel by respondent category.

Table 29: Effectiveness of injunctions: tourism and package travel (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion/ don't know	No response
Consumers	11%	**22%**	19%	19%	**22%**	6%
Businesses	3%	29%	11%	5%	**34%**	18%
Public authorities	7%	**29%**	11%	4%	25%	25%
Consumer associations	20%	**30%**	10%	5%	20%	15%
Business associations	7%	13%	2%	2%	**50%**	26%
Other	21%	28%	3%	7%	**31%**	10%
Total %	*10%*	*22%*	*8%*	*6%*	***35%***	*19%*
Total number	*23*	*52*	*19*	*15*	*84*	*44*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

According to the table above, about half of consumer associations (50%) and "other" respondents (49%) view injunctions as either very effective or rather effective in protecting consumer rights in the tourism and package travel sector. One-third of consumers (33%) considered injunctions in this sector to be effective. Among business-side respondents, 32% of businesses and 20% of business organisations considered injunctions to be effective in this sector.

The table below presents the breakdown of the assessment of the effectiveness of injunctions to stop infringements of consumer rights with respect to passenger transport by respondent category.

Table 30: Effectiveness of injunctions: passenger transport (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion/ don't know	No response
Consumers	8%	**22%**	28%	17%	19%	6%
Businesses	3%	21%	11%	0%	**50%**	16%
Public authorities	14%	14%	11%	4%	**32%**	25%
Consumer associations	15%	**35%**	10%	5%	20%	15%
Business associations	5%	9%	6%	0%	**53%**	27%
Other	21%	24%	7%	7%	**31%**	10%
Total %	*9%*	*18%*	*11%*	*4%*	***40%***	*19%*
Total number	*21*	*42*	*26*	*10*	*94*	*44*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, half of consumer associations (50%) and 45% of "other" respondents view injunctions in the passenger transport sector as a very effective or rather effective means of protecting consumer rights. 30% of consumer respondents and 28% of public authorities also view such injunctions as effective. In comparison, less than one-quarter of business respondents (24%) and business associations (14%) consider injunctions in this sector to be effective.

The table below presents the breakdown of the assessment of the effectiveness of injunctions to stop infringements of consumer rights with respect to financial services by respondent category.

Table 31: Effectiveness of injunctions: financial services (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not effective at all	No opinion/ don't know	No response
Consumers	6%	**31%**	25%	17%	14%	8%
Businesses	5%	21%	8%	3%	**47%**	16%
Public authorities	7%	**32%**	11%	4%	25%	21%
Consumer associations	10%	**25%**	20%	5%	20%	20%
Business associations	7%	10%	3%	1%	**53%**	24%
Other	17%	**31%**	3%	7%	**31%**	10%
Total %	*8%*	*22%*	*10%*	*5%*	***38%***	*18%*
Total number	*19*	*51*	*23*	*12*	*89*	*43*

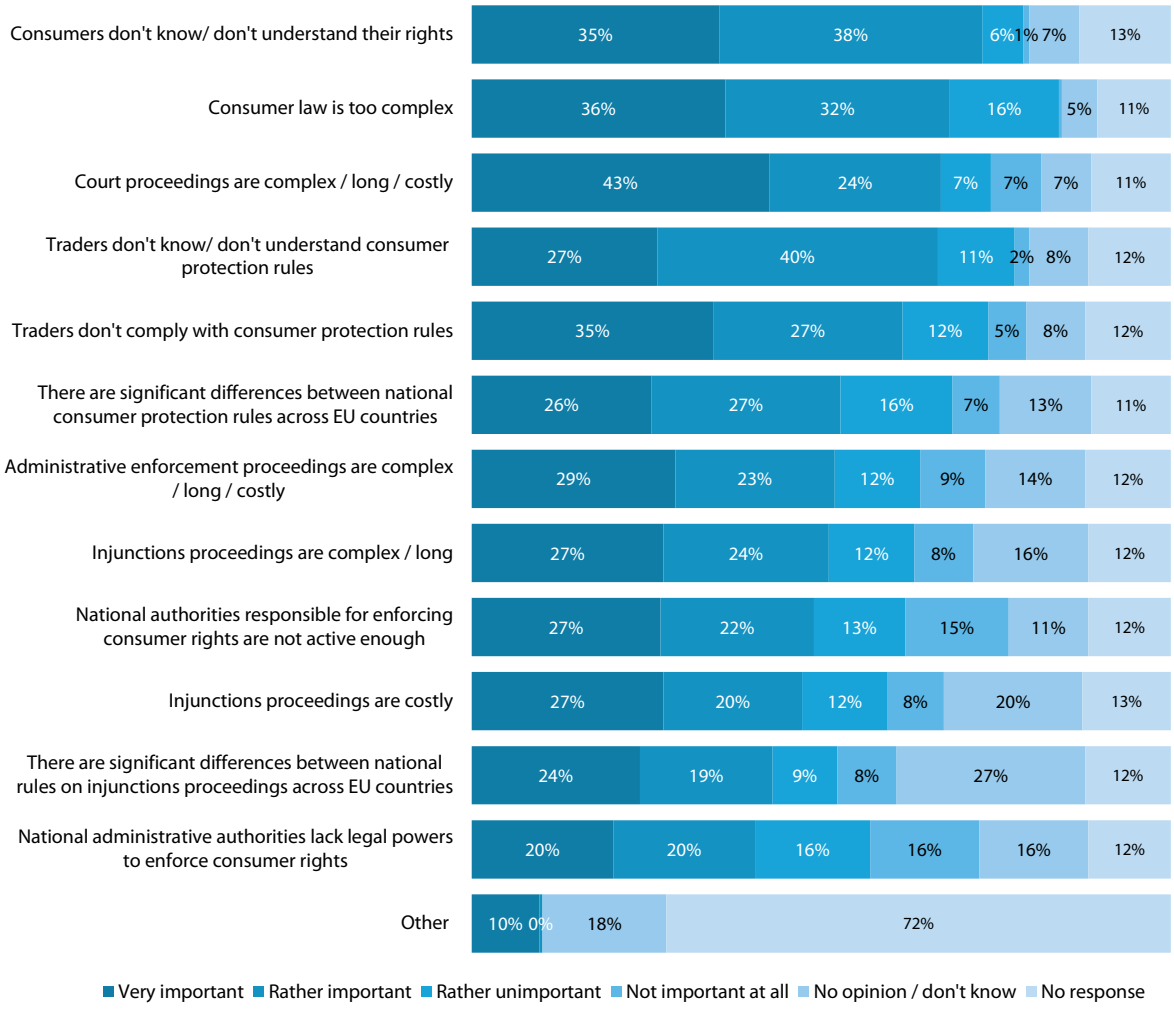
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the legal actions ("injunctions") taken by consumer organisations and public bodies to stop infringements of consumers' rights in the following economic sectors?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

48% of "other" respondents and 39% of public authorities view injunctions as either very or rather effective in protecting consumer rights in the financial services sector. 37% of consumers and less than one-third of business respondents (26%) and business associations (17%) view such injunctions as effective. 77% of business associations and 63% of businesses either did not respond or selected "no opinion/don't know".

5.4. Views on the importance of various problems for protecting the rights of consumers

The next set of questions asked respondents to assess a variety of problems in terms of their importance for protecting the rights of consumers. The figure below presents the distribution of responses across all respondent categories.

Figure 24: Importance of various problems for protecting the rights of consumers



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

"Consumers don't know/don't understand their rights" was the problem viewed by the most respondents (73%) as very or rather important for protecting the rights of consumers. Approximately two-thirds of all respondents also view the problems of consumer law being too complex (68%), court proceedings being too complex, long or costly (67%), and traders not knowing or understanding consumer protection rules (67%) as important for protecting consumer rights.

Respondents were invited to provide additional comments or to clarify their response if they selected "other" problems. From these additional comments, the following general themes could be discerned:

- Several respondents from many different Member States, particularly businesses and business associations, replied that consumer law is too complex for consumers and businesses (especially SMEs) to understand, leading to a lack of knowledge about the applicable rules;
- Some public authorities and consumer associations, for example, in Austria, Belgium, Germany, and Portugal, suggested that the high costs and time commitment required discourage consumers from exercising their rights,

especially in cases where these rights have no clear link to compensation or redress;

- Several businesses, business associations and public authorities, for example in Belgium, France, and the UK, commented that further harmonisation of EU consumer law could provide greater certainty and a higher level of consumer protection. However, some public authorities and consumer associations expressed opposition to maximum harmonisation, preferring to allow national governments to set higher levels of protection.

The table below presents the breakdown of the assessment of the importance of consumers not knowing/understanding their rights in terms of protecting consumer rights by respondent category.

Table 32: Importance of consumers not knowing/understanding their rights for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**64%**	25%	6%	0%	0%	6%
Businesses	34%	**37%**	3%	0%	8%	18%
Public authorities	43%	**46%**	0%	0%	4%	7%
Consumer associations	**60%**	30%	10%	0%	0%	0%
Business associations	19%	**35%**	10%	2%	13%	21%
Other	28%	**59%**	0%	0%	7%	7%
Total %	*35%*	***38%***	*6%*	*1%*	*7%*	*13%*
Total number	*84*	*89*	*14*	*2*	*17*	*31*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

The majority of all respondent categories found that consumers not knowing or understanding their rights constitutes a very or rather important problem with respect to protecting consumer rights. 80% or more of consumer associations (90%), public authorities (89%), consumer respondents (89%), and "other" respondents (87%) agree that this problem is important for protecting consumer rights. 71% of businesses and 54% of business associations also agree that this problem is important.

The table below presents the assessment of the importance of consumer law being too complex with respect to protecting consumer rights by respondent category.

Table 33: Importance of consumer law being too complex for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	33%	**44%**	14%	3%	0%	6%
Businesses	**50%**	24%	8%	0%	3%	16%
Public authorities	14%	**50%**	25%	0%	4%	7%
Consumer associations	30%	**35%**	**35%**	0%	0%	0%
Business associations	**41%**	22%	10%	0%	9%	17%
Other	34%	**38%**	21%	0%	7%	0%
Total %	***36%***	*32%*	*16%*	*0%*	*5%*	*11%*
Total number	*86*	*76*	*37*	*1*	*12*	*25*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Over three-quarters of consumers (77%) and business respondents (74%) agree that consumer law being too complex is a very important or rather important problem in terms of protecting the rights of consumers. The majority of the remaining respondent categories also agree that this problem is important in this respect, though 21% of "other" respondents, 25% of public authorities, and 35% of consumer associations feel that this problem is rather or not at all unimportant in terms of protecting consumer rights.

The table below presents the assessment of the importance of court proceedings being too complex/long/costly with respect to protecting consumer rights by respondent category.

Table 34: Importance of court proceedings being too complex/long/costly for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**72%**	19%	0%	3%	0%	6%
Businesses	**53%**	21%	3%	0%	5%	18%
Public authorities	**54%**	32%	0%	0%	7%	7%
Consumer associations	**65%**	35%	0%	0%	0%	0%
Business associations	16%	**17%**	16%	**17%**	15%	**17%**
Other	**45%**	41%	7%	3%	0%	3%
Total %	***43%***	*24%*	*7%*	*7%*	*7%*	*11%*
Total number	101	58	17	17	17	27

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, consumer associations unanimously agree that overly complex, long and costly court proceedings are a very important or rather important problem in terms of protecting the rights of consumers. The large majority of consumer respondents (91%), public authorities (86%), "other" respondents (86%) and business respondents (74%) also agree that this problem is important. Business associations were somewhat more divided in terms of their opinion, with 33% agreeing that this problem is important for protecting consumer rights, another 33% stating that it is rather unimportant or not important at all in this respect, and 32% not responding or stating that they do not know or have no opinion.

The table below presents the assessment of the importance of traders not knowing/understanding consumer protection rules with respect to protecting consumer rights by respondent category.

Table 35: Importance of traders not knowing/understanding consumer protection rules for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**42%**	31%	14%	0%	8%	6%
Businesses	21%	**42%**	13%	0%	5%	18%
Public authorities	**43%**	36%	11%	0%	4%	7%
Consumer associations	40%	**45%**	5%	0%	10%	0%
Business associations	15%	**40%**	10%	6%	12%	17%
Other	24%	**52%**	10%	0%	7%	7%
Total %	*27%*	***40%***	*11%*	*2%*	*8%*	*12%*
Total number	*63*	*95*	*26*	*5*	*20*	*28*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of all respondent categories believe that traders not knowing/understanding consumer protection rules represents a very important or rather important problem with respect to protecting the rights of consumers. 85% of consumer associations, 79% of public authorities, and 73% of consumers agree that it is an important problem in terms of protecting consumer rights. Among business-side respondents, 63% of individual businesses and 55% of business associations agree that traders not knowing or understanding consumer protection rules is an important problem.

The table below presents the assessment of the importance of traders not complying with consumer protection rules with respect to protecting consumer rights by respondent category.

Table 36: Importance of traders not complying with consumer protection rules for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**47%**	39%	0%	0%	6%	8%
Businesses	**37%**	34%	8%	3%	0%	18%
Public authorities	**75%**	11%	0%	0%	7%	7%
Consumer associations	**85%**	10%	5%	0%	0%	0%
Business associations	7%	22%	**24%**	14%	14%	19%
Other	24%	**45%**	14%	0%	14%	3%
Total %	***35%***	*27%*	*12%*	*5%*	*8%*	*12%*
Total number	*82*	*64*	*29*	*13*	*20*	*29*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

The majority of all respondent categories (with the exception of business associations) agree that traders failing to comply with consumer protection rules is either a very important or rather important problem with respect to protecting consumer rights. 95% of consumer associations and 86% of each consumers and public authorities perceive this to be an important problem. There is a large division of opinion between businesses and business associations, with 71% of individual businesses but just 29% of business associations agreeing that this problem is important in terms of protecting consumer rights.

The table below presents the assessment of the importance of significant differences between national consumer protection rules across EU countries with respect to protecting consumer rights by respondent category.

Table 37: Importance of significant differences between national consumer protection rules across EU countries for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	31%	**36%**	11%	3%	14%	6%
Businesses	**39%**	29%	5%	0%	8%	18%
Public authorities	18%	21%	**32%**	14%	7%	7%
Consumer associations	35%	5%	**55%**	5%	0%	0%
Business associations	20%	**28%**	8%	8%	19%	17%
Other	21%	**31%**	17%	10%	17%	3%
Total %	*26%*	***27%***	*16%*	*7%*	*13%*	*11%*
Total number	*61*	*64*	*38*	*16*	*31*	*27*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of business respondents (68%), consumer respondents (67%), and "other" respondents (52%) agree that significant differences between national consumer protection rules across the EU represent a very important or rather important problem in terms of protecting consumer rights. Less than half of business associations (48%), consumer associations (40%) and public authorities (39%) agree that this constitutes an important problem for protecting consumer rights.

The table below presents the assessment of the importance of administrative enforcement proceedings being too complex/long/costly with respect to protecting consumer rights by respondent category.

Table 38: Importance of administrative enforcement proceedings being too complex/long/costly for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**56%**	22%	8%	3%	6%	6%
Businesses	**47%**	18%	11%	0%	5%	18%
Public authorities	**25%**	**25%**	18%	4%	21%	7%
Consumer associations	**50%**	40%	0%	5%	0%	5%
Business associations	8%	17%	14%	20%	**22%**	19%
Other	24%	**31%**	17%	7%	17%	3%
Total %	***29%***	*23%*	*12%*	*9%*	*14%*	*12%*
Total number	*69*	*54*	*29*	*22*	*34*	*29*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 90% of consumer associations, 78% of consumer respondents and 65% of business respondents agree that administrative enforcement proceedings being too complex, long or costly is a very or rather important problem with respect to protecting consumer rights. About half of "other" respondents (55%) and public authorities (50%) agree that this is an important problem in this regard. Roughly one-quarter of business associations (25%) view this problem to be important in terms of protecting consumer rights.

The table below presents the assessment of the importance of injunctions proceedings being too complex/long with respect to protecting consumer rights by respondent category.

Table 39: Importance of injunctions proceedings being too complex/long for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**44%**	28%	8%	3%	11%	6%
Businesses	**39%**	26%	11%	0%	5%	18%
Public authorities	25%	**43%**	11%	0%	14%	7%
Consumer associations	**60%**	15%	15%	0%	10%	0%
Business associations	9%	14%	12%	20%	**27%**	19%
Other	24%	**31%**	21%	7%	14%	3%
Total %	***27%***	*24%*	*12%*	*8%*	*16%*	*12%*
Total number	*65*	*56*	*29*	*20*	*39*	*28*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Of all respondent categories, consumer associations indicated that the problem of injunctions proceedings being too complex/long is either "very important" or "rather important" for protecting consumer rights in the highest proportion (75%), followed by consumers (72%), public authorities (68%) and businesses (65%). Among business associations, 23% considered the complexity/length of injunctions proceedings to be an important problem.

The table below presents the assessment of the importance of national authorities responsible for enforcing consumer rights not being active enough with respect to protecting consumer rights by respondent category.

Table 40: Importance of national authorities responsible for enforcing consumer rights not being active enough for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**53%**	25%	11%	6%	0%	6%
Businesses	**26%**	**26%**	13%	3%	11%	21%
Public authorities	29%	**36%**	11%	4%	14%	7%
Consumer associations	**65%**	20%	10%	0%	5%	0%
Business associations	9%	13%	15%	**29%**	16%	17%
Other	21%	**28%**	14%	21%	14%	3%
Total %	***27%***	*22%*	*13%*	*15%*	*11%*	*12%*
Total number	*64*	*52*	*31*	*35*	*27*	*28*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most consumer associations (85%), consumer respondents (78%), public authorities (65%) and business respondents (52%) believe that national authorities responsible for enforcing consumer rights not being active enough represents a very or rather important problem in terms of protecting consumer rights. Less than half of "other" respondents (49%) and business associations (22%) consider this an important problem for protecting consumer rights.

The table below presents the assessment of the importance of injunctions proceedings being too costly with respect to protecting consumer rights by respondent category.

Table 41: Importance of injunctions proceedings being too costly for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**44%**	25%	8%	3%	14%	6%
Businesses	**37%**	34%	3%	0%	8%	18%
Public authorities	25%	**32%**	11%	4%	21%	7%
Consumer associations	**65%**	5%	15%	0%	10%	5%
Business associations	10%	8%	14%	17%	**31%**	19%
Other	21%	**28%**	24%	7%	14%	7%
Total %	***27%***	*20%*	*12%*	*8%*	*20%*	*13%*
Total number	*65*	*47*	*29*	*19*	*47*	*30*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

The majority of businesses (71%), consumer associations (70%), consumers (69%) and public authorities (57%) agree that injunctions proceedings being too costly represents a very or rather important problem in terms of protecting the rights of consumers. In contrast, 18% of business associations considered the problem to be very or rather important.

The table below presents the assessment of the importance of the significant differences between national rules on injunctions proceedings across EU countries with respect to protecting consumer rights by respondent category.

Table 42: Importance of significant differences between national rules on injunctions proceedings across EU countries for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**39%**	31%	6%	3%	17%	6%
Businesses	**34%**	16%	8%	0%	24%	18%
Public authorities	**32%**	25%	14%	11%	11%	7%
Consumer associations	**35%**	20%	20%	0%	25%	0%
Business associations	9%	10%	8%	17%	**36%**	19%
Other	21%	28%	7%	3%	**34%**	7%
Total %	*24%*	*19%*	*9%*	*8%*	***27%***	*12%*
Total number	*57*	*45*	*22*	*20*	*64*	*29*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, more than two-thirds (70%) of consumer respondents indicated that significant differences between national rules on injunctions proceedings across EU countries represents a very important or rather important problem in terms of protecting consumer rights. 57% of public authorities, 55% of consumer associations and 50% of business respondents also agree that this represents an important problem in this respect. A minority of "other" organisations (49%) and business associations (19%) considered this problem to be important.

The table below presents the assessment of the importance of national administrative authorities lacking legal powers to enforce consumer rights with respect to protecting consumer rights by respondent category.

Table 43: Importance of national administrative authorities lacking legal powers to enforce consumer rights for protecting the rights of consumers (by category of respondent)

Respondent category	Very important	Rather important	Rather unimportant	Not at all important	No opinion/ don't know	No response
Consumers	**33%**	28%	14%	8%	8%	8%
Businesses	18%	**32%**	8%	8%	16%	18%
Public authorities	**36%**	29%	14%	0%	14%	7%
Consumer associations	**40%**	30%	20%	5%	5%	0%
Business associations	7%	8%	14%	**33%**	21%	17%
Other	17%	17%	**38%**	7%	17%	3%
Total %	***20%***	***20%***	*16%*	*16%*	*16%*	*12%*
Total number	*48*	*48*	*39*	*37*	*37*	*28*

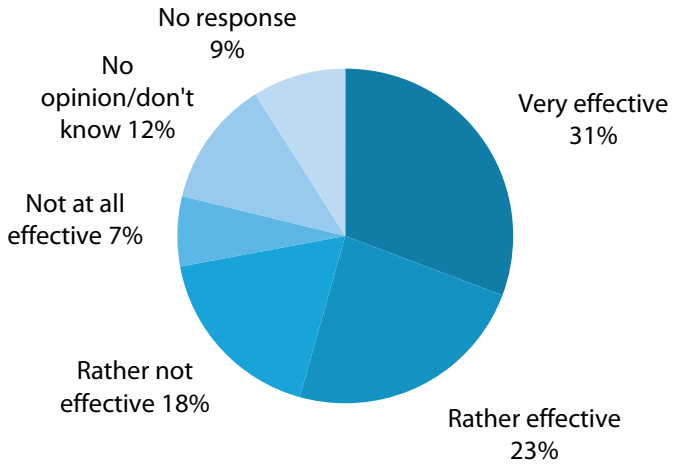
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How important are the following problems for protecting the rights of consumers?* Note: For each respondent category the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of consumer associations (70%), public authorities (65%) and consumer respondents (61%) as well as half of business respondents (50%) agree that national administrative authorities lacking legal powers to enforce consumer rights is a very or rather important problem for protecting the rights of consumers. 34% of "other" respondents and 15% of business associations also agree that this represents an important problem in terms of protecting consumer rights.

5.5. Views on the effectiveness of self- and co-regulation initiatives by businesses in protecting consumer rights

The figure below presents the breakdown of all respondents' assessments regarding the effectiveness of self- and co-regulation initiatives by businesses at the national or EU level with respect to protecting the rights of consumers.

Figure 25: Effectiveness of self- and co-regulation initiatives by businesses at the national or EU level with respect to protecting the rights of consumers



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective for protecting the rights of consumers are self- and co-regulation initiatives by businesses at national or EU level, under which businesses establish standards as to how they deal with consumers (e.g. industry trust marks)?* Base: all respondents to the full survey. N=237.

As shown in the figure above, over half of all respondents view these initiatives as effective in protecting consumer rights (31% view them as "very effective", and 23% view them as "rather effective"), 25% view them as rather or not at all effective in protecting consumer rights, and the remaining 21% selected "no opinion/don't know" or did not respond.

The table below displays the assessment of the effectiveness of self- and co-regulation initiatives by businesses at the national or EU level with respect to protecting the rights of consumers by category of respondent.

Table 44: Effectiveness of self- and co-regulation initiatives by businesses at the national or EU level with respect to protecting the rights of consumers (by category of respondent)

Respondent category	Very effective	Rather effective	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	11%	22%	**28%**	17%	17%	6%
Businesses	**26%**	21%	16%	13%	11%	13%
Public authorities	0%	**39%**	29%	4%	21%	7%
Consumer associations	5%	25%	**40%**	10%	10%	10%
Business associations	**62%**	17%	2%	1%	8%	9%
Other	17%	**31%**	28%	3%	14%	7%
Total %	***31%***	*24%*	*18%*	*7%*	*12%*	*9%*
Total number	*73*	*56*	*42*	*16*	*29*	*21*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective for protecting the rights of consumers are self- and co-regulation initiatives by businesses at national or EU level, under which businesses establish standards as to how they deal with consumers (e.g. industry trust marks)?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

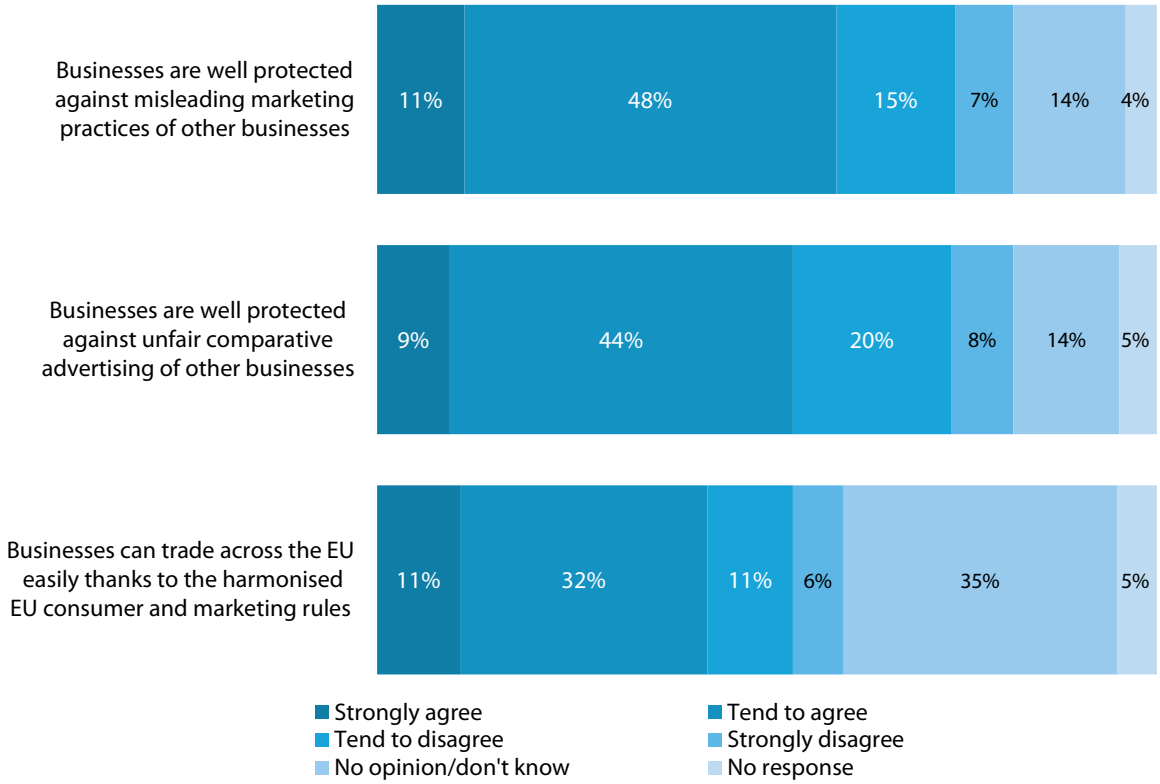
As shown in the table above, 79% of business associations found these self- and co-regulation initiatives to be either "very effective" or "rather effective" in protecting consumer rights. In contrast, only 30% of consumer associations and 33% of consumers found such initiatives to be effective in protecting consumer rights. A slight minority of businesses agree that such initiatives were effective in protecting consumer rights.

Respondents were also asked to provide information on successful self- and co-regulation initiatives and what makes them successful. A number of specific self- and co-regulation schemes were cited, the most prominent being the Ecommerce Europe Trustmark scheme and the advertising standards bodies (also called self-regulatory organisations) under the umbrella of the European Advertising Standards Alliance (EASA). The indicated reasons for the success of such initiatives included ensuring strong enforcement mechanisms such as public monitoring or impartial compliance procedures, as well as maintaining backing for such initiatives at the EU and Member State level.

5.6. Views on the position of businesses in the context of EU consumer and marketing rules

In the next set of questions, respondents were asked about their opinion on a number of statements regarding the position of businesses in the context of EU consumer and marketing rules.[17] The figure below presents the distribution of responses.

Figure 26: Respondent opinions on the position of businesses in the context of EU consumer and marketing rules



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is your opinion regarding the following statements?* Note: Percentages may not sum to 100% due to rounding. Business responses have been added from the business survey (see Section 4). Base: all non-business respondents to the full survey and all business respondents to the business survey. N=375.

As shown in the figure above, the distribution of opinions across respondents was quite varied across all stakeholders. More than half of respondents agree that businesses are well-protected against misleading marketing practices of other businesses (59%) and that businesses are well-protected against unfair comparative advertising of other businesses (53%). However, slightly less than half agree that businesses can trade across the EU easily thanks to harmonised EU consumer and marketing rules (43%), and a large proportion of respondents to the latter statement either did not respond or answered with "no opinion/don't know" (40%).

[17] Business respondents were asked identical questions separately in the business survey (see Section 4 above), and were not asked to complete them again in the full survey. The responses to the identical questions from the business survey have therefore been added here for comparability. Note that because more businesses filled out the business survey (176) than the full questionnaire (37), this raises the sample size for the questions in this section to N = 375.

The table below presents the breakdown of opinions regarding the statement "businesses are well protected against misleading marketing practices of other businesses" by respondent category.

Table 45: Opinions on whether businesses are well protected against misleading marketing practices of other businesses (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/ don't know	No response
Consumers	8%	22%	**31%**	17%	17%	6%
Businesses	4%	**61%**	20%	9%	5%	0%
Public authorities	0%	25%	29%	0%	**32%**	14%
Consumer associations	0%	5%	15%	0%	**75%**	5%
Business associations	24%	**33%**	15%	8%	9%	10%
Other	14%	**45%**	17%	3%	14%	7%
Total %	*9%*	***44%***	*20%*	*8%*	*14%*	*5%*
Total number	*35*	*165*	*76*	*30*	*51*	*19*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is your opinion regarding the following statements?* Notes: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Business responses have been added from the business survey (see Section 4). Base: all non-business respondents to the full survey and all business respondents to the business survey. N=375.

65% of businesses, 57% of business associations and 59% of "other" respondents either strongly agree or tend to agree with the statement that businesses are well protected against misleading marketing practices of other businesses. In contrast, less than one-third of consumer respondents (30%), public authorities (25%) and consumer associations (5%) agree with this statement. 80% of consumer associations indicated that they had no opinion, did not know or did not reply.

The table below presents the breakdown of opinions regarding the statement "businesses are well protected against unfair comparative advertising of other businesses" by respondent category.

Table 46: Opinions on whether businesses are well protected against unfair comparative advertising of other businesses (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/ don't know	No response
Consumers	8%	**25%**	22%	25%	14%	6%
Businesses	5%	**64%**	17%	9%	6%	0%
Public authorities	0%	**39%**	14%	0%	36%	11%
Consumer associations	0%	10%	5%	0%	**80%**	5%
Business associations	28%	**37%**	12%	2%	12%	9%
Other	24%	**41%**	14%	7%	10%	3%
Total %	*11%*	***48%***	*15%*	*7%*	*14%*	*4%*
Total number	*42*	*179*	*57*	*28*	*54*	*16*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is your opinion regarding the following statements?* Notes: For each respondent category, the highest percentage is bolded; see Table 12 for business responses to this question. Percentages may not sum to 100% due to rounding. Business responses have been added from the business survey (see Section 4). Base: all non-business respondents to the full survey and all business respondents to the business survey. N=375.

As shown in the table above, most businesses (69%) and business associations (65%) either strongly agree or tend to agree with the statement that businesses are well protected against unfair comparative advertising of other businesses. 33% of consumers and 10% of consumer associations agree with this statement, with 85% of consumer associations in this category either not responding or selecting "no opinion/don't know".

The table below presents the breakdown of opinions regarding the statement "businesses can trade across the EU easily thanks to the harmonised EU consumer and marketing rules" by respondent category.

Table 47: Opinions on whether businesses can trade across the EU easily thanks to the harmonised EU consumer and marketing rules (by category of respondent)

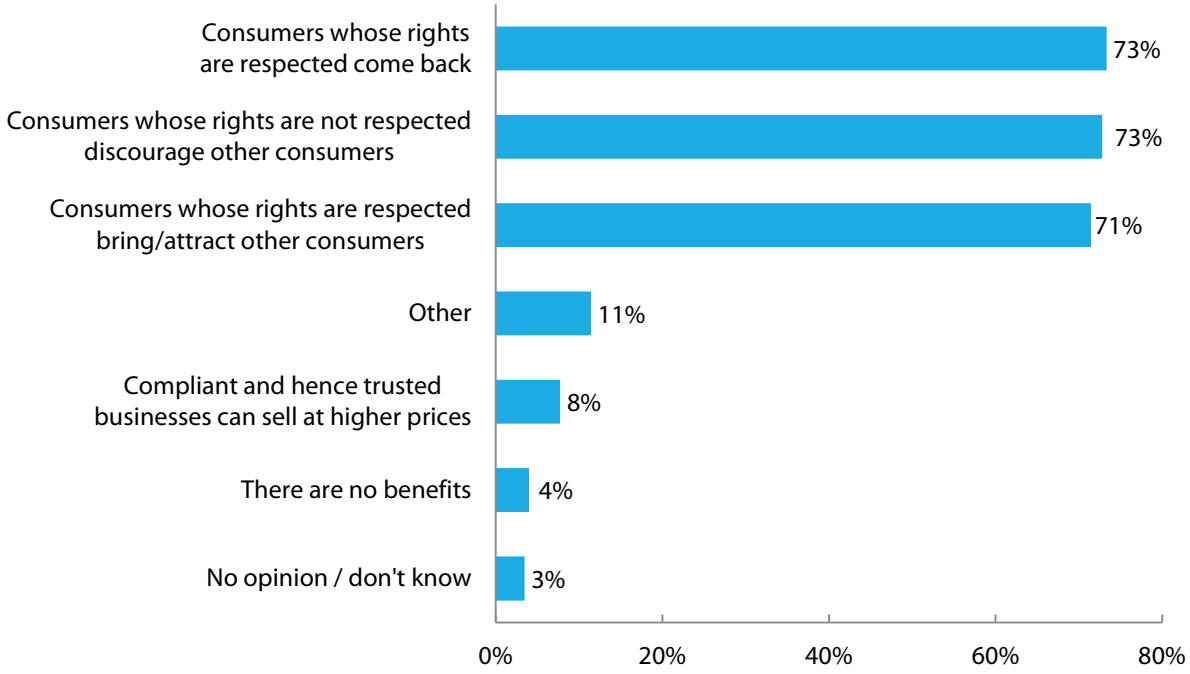
Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/ don't know	No response
Consumers	31%	**39%**	17%	3%	6%	6%
Businesses	9%	22%	6%	5%	**59%**	0%
Public authorities	7%	**43%**	14%	4%	21%	11%
Consumer associations	5%	**45%**	5%	0%	40%	5%
Business associations	8%	**34%**	17%	14%	13%	14%
Other	10%	**55%**	17%	7%	7%	3%
Total %	*11%*	*32%*	*11%*	*6%*	***35%***	*5%*
Total number	*40*	*119*	*41*	*24*	*132*	*20*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: What is your opinion regarding the following statements?* Notes: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Business responses have been added from the business survey (see Section 4). Base: all non-business respondents to the full survey and all business respondents to the business survey. N=375.

As shown in the table above, at least half of all the non-business respondent categories agree with the statement that businesses can trade across the EU easily as a result of harmonised EU consumer and marketing rules. However, a minority of business associations (42%) and even fewer individual businesses (31%) agree with this statement.

Respondents were next asked what they believed were the benefits for businesses that result from complying with EU consumer and marketing law. The figure below presents the distribution of responses across all respondent categories.

Figure 27: Benefits for businesses from complying with EU consumer and marketing law



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, what are the benefits from complying with EU consumer and marketing law?* Notes: Multiple replies were allowed; therefore the percentages do not add up to 100%. Business responses have been added from the business survey (see Section 4). Base: all non-business respondents to the full survey and all business respondents to the business survey. N=375.

As shown in the figure above, "consumers whose rights are respected come back" "consumers whose rights are not respected discourage other consumers", and "consumers whose rights are respected bring/attract other consumers" were listed by more than 70% of respondents as benefits for businesses from complying with EU consumer and marketing law. 11% of respondents indicated "other" benefits such as increased consumer trust to make cross-border purchases (according to a national consumer organisation in the Netherlands) and reduced customer service costs (according to a national consumer organisation in Finland).

Additionally, the table below presents the breakdown of opinions regarding these benefits for businesses by category of stakeholder.

Table 48: Benefits for businesses from complying with EU consumer and marketing law (by category of respondent)

Respondent category	Compliant and hence trusted businesses can sell at higher prices	Consumers whose rights are respected bring/attract other consumers	Consumers whose rights are respected come back	Consumers whose rights are not respected discourage other consumers	Other	There are no benefits	No opinion/ Don't know	Total number (of respondents per category)
Consumers	19%	61%	**67%**	58%	3%	6%	6%	86
Businesses	3%	**80%**	**80%**	78%	8%	4%	1%	38
Public authorities	14%	68%	**75%**	61%	14%	0%	14%	20
Consumer associations	20%	55%	**60%**	50%	20%	0%	15%	36
Business associations	5%	69%	67%	**78%**	15%	5%	2%	29
Other	14%	59%	66%	**72%**	24%	7%	3%	28
Total %	*8%*	*71%*	***73%***	***73%***	*11%*	*4%*	*3%*	*237*
Total number	*29*	*268*	*275*	*273*	*43*	*15*	*13*	-

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: In your view, what are the benefits from complying with EU consumer and marketing law?* Note: Multiple responses were allowed, therefore percentages per respondent category do not sum to 100%. Business responses have been added from the business survey (see Section 4). Base: all non-business respondents to the full survey and all business respondents to the business survey. N=375.

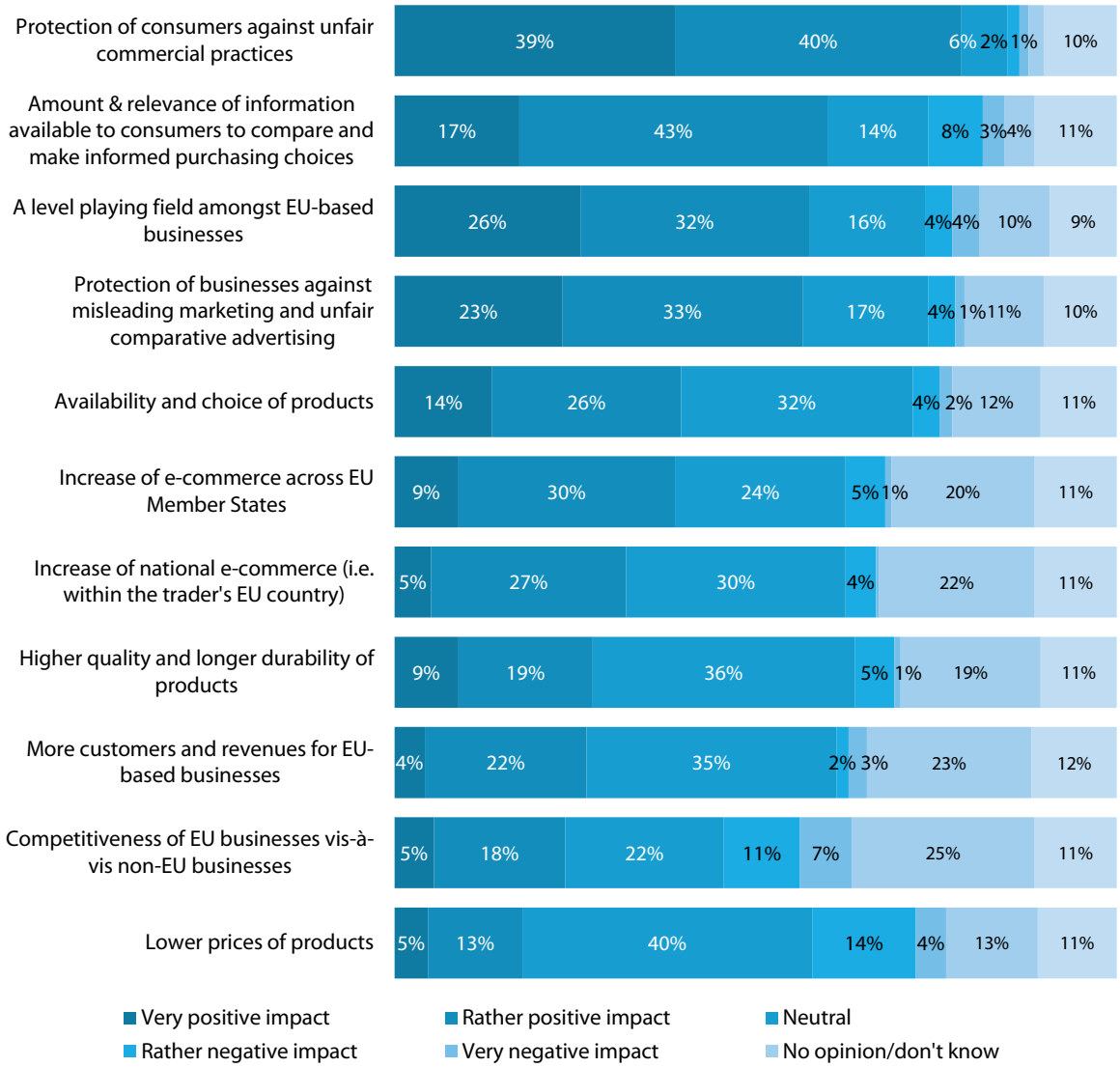
As shown in the table above, “consumers whose rights are respected come back” was indicated as a benefit for businesses by the highest proportion of consumer associations (60%), consumer respondents (67%) and public authorities (75%), while “consumers whose rights are not respected discourage other consumers” was selected as a benefit by the highest proportion of businesses associations (78%).[18]

5.7. Views on the impact of EU consumer and marketing law

The next set of questions asked respondents to assess how positive or negative the impact of EU consumer and marketing law has been in various areas. The figure below presents the distribution of assessments across all respondent categories.

[18] Two additional questions in this section related to costs estimates. Only very few answers were received, so that the base for the estimates is very small. The first of these questions was targeted at business associations and asked for an estimate of the direct costs of compliance with consumer and marketing rules for the companies they represent, e.g. costs of providing legal guarantee for goods, complying with consumer information requirements (as a percentage of annual turnover). Five responses were received, the median value was 5%, the minimum value was 1% and the maximum value was 10%. The second question was targeted at public authorities and consumer organisations and asked for an estimate of their average cost of an enforcement action to bring a trader or traders into compliance with EU consumer and marketing rules. Eight response were received, the median value reported was EUR 2 000, the minimum value was EUR 0 and the maximum value was EUR 10 000.

Figure 28: Impact of EU consumer and marketing law



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, a majority of all respondents found that the impact of EU consumer and marketing law had a very positive or rather positive impact on the "protection of consumers against unfair commercial practices" (79%), the "amount and relevance of information available to consumers to compare and make informed purchasing choices" (60%), the creation of "a level playing field amongst EU-based businesses" (58%) and the "protection of businesses against misleading marketing and unfair comparative advertising" (56%).

Respondents were invited to provide additional details in the comments section of this question. General trends can be observed in the comments, including:

- Several public authorities and consumer associations, for example in Austria, Belgium, Germany, and Portugal, emphasised that information requirements are critical in providing a high level of protection for consumers. A national consumer organisation in Portugal wrote that it "consider[ed] it crucial to assess how, in which form, in what language, by whom, and when essential information is communicated to consumers";

- Consumer organisations in France and Austria commented that access to individual and collective remedies is necessary to improve the effectiveness of EU consumer law;
- Businesses and business organisations commented that the current level of information requirements creates costs for businesses and overloads consumers with less relevant details.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on the protection of consumers against unfair commercial practices by respondent category.

Table 49: Impact of EU consumer and marketing law on the protection of consumers against unfair commercial practices (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	**56%**	25%	6%	3%	3%	3%	6%
Businesses	29%	**42%**	5%	5%	3%	0%	16%
Public authorities	**50%**	32%	7%	0%	0%	0%	11%
Consumer associations	**50%**	45%	5%	0%	0%	0%	0%
Business associations	29%	**48%**	3%	1%	1%	5%	13%
Other	**41%**	34%	17%	0%	0%	0%	7%
Total %	*39%*	***40%***	*6%*	*2%*	*1%*	*2%*	*10%*
Total number	*92*	*94*	*15*	*4*	*3*	*5*	*24*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the vast majority of all respondent categories agree that EU consumer and marketing law has had a positive impact on the protection of consumers against unfair commercial practices. 95% of consumer associations, 81% of consumers and 82% of public authorities indicated a positive impact on this aspect. More than 70% of all other respondent categories also indicated a very or rather positive impact in this regard.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on the amount and relevance of information available to consumers to compare and make informed purchasing choices by respondent category.

Table 50: Impact of EU consumer and marketing law on the amount and relevance of information available to consumers to compare and make informed purchasing choices (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	**36%**	31%	14%	8%	3%	3%	6%
Businesses	8%	**53%**	16%	3%	0%	3%	18%
Public authorities	21%	**57%**	4%	4%	0%	4%	11%
Consumer associations	25%	**65%**	5%	5%	0%	0%	0%
Business associations	9%	**33%**	17%	9%	7%	8%	16%
Other	21%	**45%**	17%	14%	0%	0%	3%
Total %	*17%*	***43%***	*14%*	*8%*	*3%*	*4%*	*11%*
Total number	*41*	*101*	*33*	*18*	*7*	*10*	*27*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of nearly all respondent categories agree that EU consumer and marketing law has had a very positive or rather positive impact on the amount and relevance of information available to consumers. Consumer associations agree the most, with 90% of the latter indicating a positive impact in this respect, followed by public authorities (78%) and consumers (67%). 61% of businesses and 42% of business associations indicated a positive impact of EU consumer and marketing law in this respect.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on the creation of a level playing field amongst EU-based businesses by respondent category.

Table 51: Impact of EU consumer and marketing law on the creation of a level playing field amongst EU-based businesses (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	**33%**	22%	22%	3%	3%	11%	6%
Businesses	29%	**32%**	8%	5%	11%	0%	16%
Public authorities	14%	**36%**	18%	0%	0%	21%	11%
Consumer associations	**35%**	30%	15%	0%	0%	20%	0%
Business associations	26%	**30%**	16%	5%	3%	9%	10%
Other	17%	**45%**	17%	7%	3%	3%	7%
Total %	*26%*	***32%***	*16%*	*4%*	*4%*	*10%*	*9%*
Total number	*61*	*75*	*38*	*9*	*9*	*23*	*22*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, at least half of respondents of all types agree that EU consumer and marketing law has had a very positive or rather positive impact on the creation of a level playing field amongst EU-based businesses. 61% of business respondents and 56% of business associations indicated a positive impact in this respect.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on the protection of businesses against misleading marketing and unfair comparative advertising by respondent category.

Table 52: Impact of EU consumer and marketing law on the protection of businesses against misleading marketing and unfair comparative advertising (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	**33%**	22%	22%	3%	3%	8%	8%
Businesses	18%	**39%**	8%	11%	3%	5%	16%
Public authorities	11%	**46%**	7%	0%	0%	25%	11%
Consumer associations	15%	**30%**	**30%**	0%	0%	25%	0%
Business associations	24%	**33%**	20%	2%	1%	8%	12%
Other	**31%**	**31%**	17%	7%	0%	7%	7%
Total %	*23%*	***33%***	*17%*	*4%*	*1%*	*11%*	*10%*
Total number	*55*	*79*	*41*	*9*	*3*	*26*	*24*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

A majority of business respondents (57%), business associations (57%), public authorities (57%) and consumer respondents (55%) indicated that EU consumer and marketing law has had a very positive or rather positive impact on the protection of businesses against misleading marketing and unfair comparative advertising. 45% of consumer associations also indicated a positive impact in this regard.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on the availability and choice of products by respondent category.

Table 53: Impact of EU consumer and marketing law on the availability and choice of products (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	**31%**	28%	31%	0%	0%	3%	8%
Businesses	18%	24%	**26%**	8%	3%	5%	16%
Public authorities	14%	**29%**	25%	0%	0%	21%	11%
Consumer associations	10%	35%	**40%**	0%	0%	15%	0%
Business associations	6%	22%	**34%**	6%	3%	16%	13%
Other	10%	31%	**38%**	3%	0%	10%	7%
Total %	*14%*	*26%*	***32%***	*4%*	*2%*	*12%*	*11%*
Total number	*32*	*62*	*76*	*9*	*4*	*29*	*25*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, consumers are the only stakeholder type in which a majority (59%) considered that EU consumer and marketing law has had either a very positive or rather positive impact on the availability and choice of products. Less than half of the other respondent categories indicated a positive impact, with business associations (28%) being the least likely to indicate a positive impact in this regard.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on increasing e-commerce across EU Member States by respondent category.

Table 54: Impact of EU consumer and marketing law on increasing e-commerce across EU Member States (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	8%	**44%**	17%	3%	3%	14%	11%
Businesses	5%	**29%**	24%	13%	3%	11%	16%
Public authorities	18%	**29%**	14%	0%	0%	25%	14%
Consumer associations	35%	**40%**	5%	0%	0%	20%	0%
Business associations	1%	21%	**31%**	7%	0%	27%	13%
Other	10%	**34%**	31%	3%	0%	14%	7%
Total %	*9%*	***30%***	*24%*	*5%*	*1%*	*20%*	*11%*
Total number	*21*	*71*	*56*	*13*	*2*	*47*	*27*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 75% of consumer associations and 52% of consumer respondents agree that EU consumer and marketing law had a very positive or rather positive impact on increasing e-commerce across EU Member States. In all other stakeholder groups, a minority agree that there had been a positive impact, with business associations being the least likely to see a positive impact (22%). At least 20% of stakeholders in each category either did not respond or selected "no opinion/don't know".

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on increasing national e-commerce by respondent category.

Table 55: Impact of EU consumer and marketing law on increasing national e-commerce (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	6%	**42%**	25%	0%	0%	17%	11%
Businesses	5%	**32%**	26%	11%	3%	8%	16%
Public authorities	11%	21%	**32%**	0%	0%	25%	11%
Consumer associations	15%	**50%**	0%	0%	0%	35%	0%
Business associations	0%	16%	**36%**	5%	0%	29%	14%
Other	7%	24%	**45%**	7%	0%	10%	7%
Total %	*5%*	*27%*	***30%***	*4%*	*0%*	*22%*	*11%*
Total number	*12*	*64*	*72*	*10*	*1*	*51*	*27*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 65% of consumer associations, 48% of consumer respondents and 37% of business respondents agree that EU consumer and marketing law has had either a very positive or rather positive impact on increasing national e-commerce. Less than one-third of public authorities (32%), "other" respondents (31%) and business associations (16%) indicated a positive impact in this regard.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on higher quality and longer durability of products by respondent category.

Table 56: Impact of EU consumer and marketing law on higher quality and longer durability of products (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	19%	19%	**25%**	14%	6%	11%	6%
Businesses	16%	**34%**	21%	0%	0%	13%	16%
Public authorities	7%	18%	**36%**	11%	0%	18%	11%
Consumer associations	15%	30%	**35%**	5%	0%	15%	0%
Business associations	1%	5%	**48%**	2%	0%	30%	14%
Other	7%	31%	**38%**	7%	0%	10%	7%
Total %	*9%*	*19%*	***36%***	*5%*	*1%*	*19%*	*11%*
Total number	*21*	*44*	*86*	*13*	*2*	*46*	*25*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, half of business respondents (50%) agree that EU consumer and marketing law has had either a very positive or rather positive impact on producing higher quality and longer durability of products. For all other stakeholder types, less than half indicated a positive impact in this regard; at least 15% within each stakeholder type either did not respond or selected "no opinion/don't know". Least positive were the business associations, of which only 6% indicated a positive impact on producing higher quality and longer durability of products.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on increasing customers and revenues for EU-based businesses by respondent category.

Table 57: Impact of EU consumer and marketing law on increasing customers and revenues for EU-based businesses (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	8%	**33%**	25%	6%	0%	17%	11%
Businesses	5%	26%	**34%**	3%	5%	8%	18%
Public authorities	0%	21%	29%	0%	0%	**36%**	14%
Consumer associations	10%	40%	5%	0%	0%	**45%**	0%
Business associations	1%	9%	**44%**	1%	5%	27%	13%
Other	7%	31%	**45%**	0%	0%	10%	7%
Total %	*5%*	*25%*	***39%***	*2%*	*3%*	*26%*	*13%*
Total number	*10*	*53*	*82*	*4*	*6*	*54*	*28*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, half of consumer associations (50%) indicated that EU consumer and marketing law has had a very positive or rather positive impact on increasing customers and revenues for EU-based businesses. Significant portions of "other" respondents (45%), business associations (44%) and business respondents (34%) indicated a neutral opinion with respect to the impact of EU consumer and marketing law on this aspect.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on increasing the competitiveness of EU businesses vis-à-vis non-EU businesses by respondent category.

Table 58: Impact of EU consumer and marketing law on increasing the competitiveness of EU businesses vis-a-vis non-EU businesses (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	3%	**36%**	19%	6%	11%	14%	11%
Businesses	3%	**18%**	**18%**	16%	13%	13%	**18%**
Public authorities	4%	18%	25%	0%	0%	**39%**	14%
Consumer associations	30%	10%	0%	5%	0%	**55%**	0%
Business associations	1%	9%	**27%**	16%	8%	**27%**	12%
Other	10%	**28%**	**28%**	7%	3%	17%	7%
Total %	*6%*	*20%*	*25%*	*12%*	*8%*	***29%***	*13%*
Total number	*13*	*43*	*52*	*25*	*17*	*60*	*27*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

There was no stakeholder type in which a majority considered that EU consumer and marketing law has had either a very positive or rather positive impact on increasing the competitiveness of EU businesses with respect to non-EU businesses. Most positive were consumer associations (40%) and consumers (39%), while least positive were business associations, with only 10% responding that they perceived a positive impact in this respect.

The table below presents the breakdown of assessments regarding the impact of EU consumer and marketing law on lowering the prices of products by respondent category.

Table 59: Impact of EU consumer and marketing law on lowering the prices of products (by category of respondent)

Respondent category	Very positive impact	Rather positive impact	Neutral	Rather negative impact	Very negative impact	No opinion/ don't know	No response
Consumers	8%	19%	**42%**	6%	8%	8%	8%
Businesses	11%	13%	**42%**	8%	8%	3%	16%
Public authorities	4%	18%	**39%**	11%	0%	18%	11%
Consumer associations	10%	**35%**	**35%**	10%	0%	10%	0%
Business associations	0%	2%	**38%**	21%	5%	20%	14%
Other	3%	17%	**45%**	21%	0%	7%	7%
Total %	*5%*	*15%*	***45%***	*16%*	*5%*	*14%*	*12%*
Total number	*11*	*31*	*95*	*34*	*10*	*30*	*26*

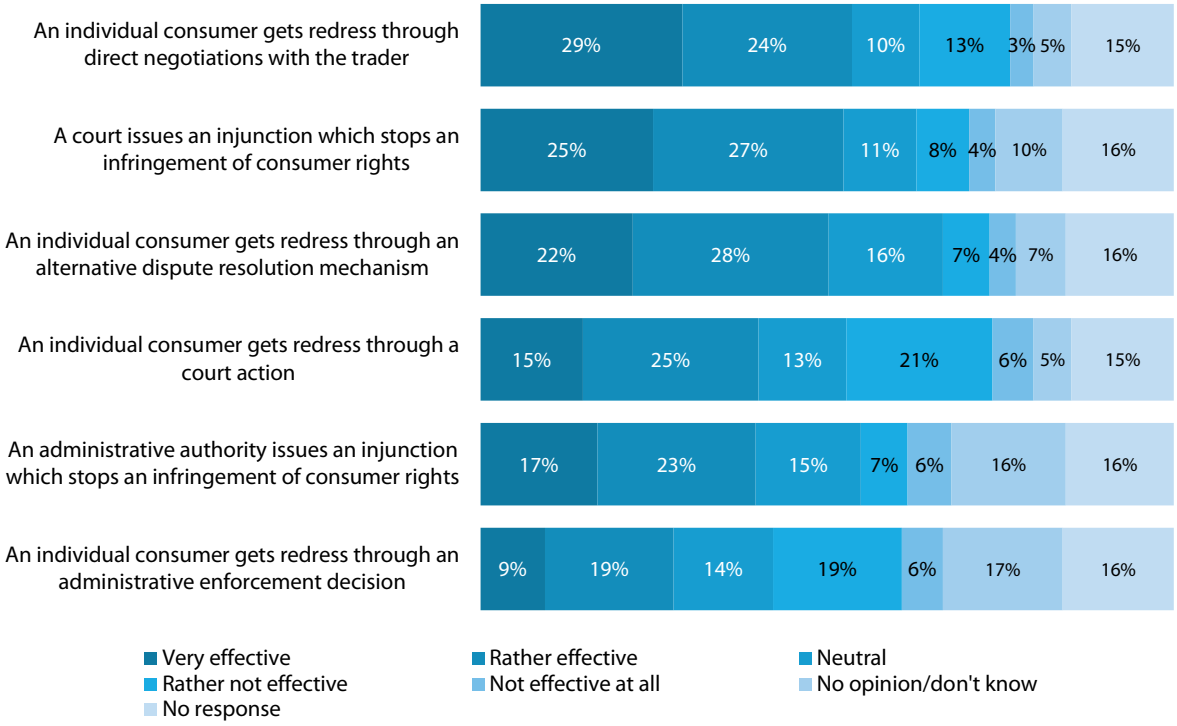
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How positive/negative is the impact of EU consumer and marketing law on the following aspects?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

There was no stakeholder type in which a majority considered that EU consumer and marketing law has had either a very positive or rather positive impact regarding on lowering product prices. At least 35% of respondents in each category responded neutrally. While almost half of consumer associations perceived a positive impact in this regard (45%), this view was shared by only 2% of business associations.

5.8. Views on the effectiveness of consumer redress/enforcement mechanisms

The next set of questions asked respondents to assess the effectiveness of various consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules. The figure below presents the distribution of assessments across all respondent categories.

Figure 29: Views on the effectiveness of consumer redress/enforcement mechanisms



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, at least half of respondents perceived the following enforcement mechanisms to be "very effective" or "rather effective": "An individual consumer gets redress through direct negotiations with the trader" (53%), "A court issues an injunction which stops an infringement of consumer rights" (52%) and "An individual consumer gets redress through an alternative dispute resolution mechanism" (50%).

Respondents were able to provide additional details in the comments section of this question. Some of the general trends drawn from these comments include:

- Consumer associations in Austria, Belgium and Portugal considered injunctions to be effective enforcement measures, but emphasised that their effectiveness would be increased by requiring publication of the injunction order, creating a direct link to redress, and including penalties for non-compliance;
- Businesses and business associations generally considered the current range of enforcement and redress options to be sufficient, and emphasised that most problems are ideally solved through direct negotiation between the trader and consumer, with court action as a last resort;
- Business associations and public authorities commented that alternative dispute resolution mechanisms (such as a consumer ombudsman) can work well as an intermediary step between negotiation and court action. For example, one Belgian public authority noted that 92% of cases that went to the consumer ombudsman in the telecommunications industry were successfully resolved.

The table below presents the breakdown of assessments regarding the effectiveness of an individual consumer obtaining redress through direct negotiations with the trader by respondent category.

Table 60: Effectiveness of an individual consumer obtaining redress through direct negotiations with the trader (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	11%	**31%**	11%	22%	11%	0%	14%
Businesses	**37%**	32%	3%	5%	5%	3%	16%
Public authorities	11%	21%	**29%**	18%	4%	4%	14%
Consumer associations	15%	20%	15%	**35%**	0%	0%	15%
Business associations	**47%**	17%	3%	5%	1%	9%	17%
Other	17%	**34%**	14%	17%	0%	10%	7%
Total %	***29%***	*24%*	*10%*	*13%*	*3%*	*5%*	*15%*
Total number	*69*	*58*	*23*	*31*	*8*	*13*	*35*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of business respondents (69%) and business associations (64%) found individual consumers obtaining redress through direct negotiations with traders to be either a very effective or rather effective means of protecting consumer rights in the event of a breach of EU consumer rules. In contrast, 42% of consumers, 35% of consumer associations, and 32% of public authorities found this to be an effective mechanism.

The table below presents the breakdown of assessments regarding the effectiveness of a court issuing an injunction which stops an infringement of consumer rights by respondent category.

Table 61: Effectiveness of a court issuing an injunction which stops an infringement of consumer rights (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	**28%**	25%	19%	6%	3%	6%	14%
Businesses	21%	**29%**	13%	13%	8%	0%	16%
Public authorities	21%	**43%**	7%	7%	4%	7%	11%
Consumer associations	**25%**	**25%**	5%	10%	10%	10%	15%
Business associations	**26%**	23%	9%	5%	2%	14%	21%
Other	**28%**	**28%**	7%	10%	0%	17%	10%
Total %	*25%*	***27%***	*11%*	*8%*	*4%*	*10%*	*16%*
Total number	*59*	*65*	*25*	*18*	*9*	*23*	*38*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

At least half of respondents of all types except business associations agree that a court issuing an injunction to stop an infringement of consumer rights constitutes either a very effective or rather effective means of protecting consumer rights in the event of a breach of EU consumer law. 64% of public authorities indicated this to be effective, as did slightly more than half of consumers (53%).

The table below presents the breakdown of assessments regarding the effectiveness of an individual consumer obtaining redress through an alternative dispute mechanism by respondent category.

Table 62: Effectiveness of an individual consumer obtaining redress through an alternative dispute mechanism (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	14%	**22%**	17%	17%	8%	8%	14%
Businesses	18%	**32%**	16%	11%	5%	3%	16%
Public authorities	18%	**46%**	18%	0%	4%	4%	11%
Consumer associations	25%	**30%**	20%	5%	0%	5%	15%
Business associations	**34%**	17%	12%	3%	2%	10%	21%
Other	3%	**45%**	28%	7%	3%	7%	7%
Total %	*22%*	***28%***	*16%*	*7%*	*4%*	*7%*	*16%*
Total number	*52*	*67*	*39*	*16*	*9*	*17*	*37*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, consumers were the least positive of all stakeholder types regarding the effectiveness of ADR mechanisms, with only 36% considering these to be "very effective" or "rather effective". In contrast, 64% of public authorities and 55% of consumer organisations considered ADR to be effective, as did about half of business associations (51%) and businesses (50%).

The table below presents the breakdown of assessments regarding the effectiveness of an individual consumer obtaining redress through a court action by respondent category.

Table 63: Effectiveness of an individual consumer obtaining redress through a court action (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	14%	**28%**	11%	17%	8%	8%	14%
Businesses	8%	16%	13%	**37%**	8%	3%	16%
Public authorities	11%	**29%**	4%	25%	14%	7%	11%
Consumer associations	15%	**35%**	10%	25%	0%	0%	15%
Business associations	**22%**	20%	17%	12%	3%	7%	19%
Other	7%	**41%**	10%	28%	3%	3%	7%
Total %	*15%*	***25%***	*13%*	*21%*	*6%*	*5%*	*15%*
Total number	*35*	*60*	*30*	*50*	*14*	*13*	*35*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, half of consumer associations (50%) indicated that individual consumers obtaining redress through a court action constitutes a very effective or rather effective means of protecting consumer rights. For all other stakeholders, a minority considered court action to be effective. While 42% of consumers and business associations considered court action to be effective, this view was shared by only 22% of businesses.

The table below presents the breakdown of assessments regarding the effectiveness of an administrative authority issuing an injunction that stops an infringement of consumer rights by respondent category.

Table 64: Effectiveness of an administrative authority issuing an injunction that stops an infringement of consumer rights (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	17%	**25%**	14%	11%	8%	11%	14%
Businesses	18%	**37%**	11%	8%	8%	3%	16%
Public authorities	21%	**39%**	11%	4%	0%	14%	11%
Consumer associations	5%	15%	20%	5%	**25%**	15%	15%
Business associations	16%	14%	16%	5%	3%	**24%**	21%
Other	**21%**	17%	**21%**	10%	3%	**21%**	7%
Total %	*17%*	***23%***	*15%*	*7%*	*6%*	*16%*	*16%*
Total number	*40*	*54*	*36*	*16*	*15*	*39*	*37*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most public authorities (60%) and business respondents (55%) agree that administrative authorities issuing injunctions that stop infringements of consumer rights represents a very effective or rather effective means of protecting consumer rights in the event of a breach of EU consumer and marketing rules. In contrast, 42% of consumers and only 20% of consumer associations agree that such a mechanism is effective.

The table below presents the breakdown of assessments regarding the effectiveness of an individual consumer obtaining redress through an administrative enforcement decision by respondent category.

Table 65: Effectiveness of an individual consumer obtaining redress through an administrative enforcement decision (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	8%	19%	8%	**28%**	8%	14%	14%
Businesses	13%	13%	18%	**29%**	5%	5%	16%
Public authorities	11%	**29%**	14%	7%	7%	18%	14%
Consumer associations	5%	25%	10%	**35%**	5%	5%	15%
Business associations	9%	13%	15%	9%	5%	**27%**	22%
Other	7%	**28%**	17%	21%	7%	17%	3%
Total %	*9%*	***19%***	*14%*	***19%***	*6%*	*17%*	*16%*
Total number	*22*	*44*	*34*	*44*	*14*	*41*	*38*

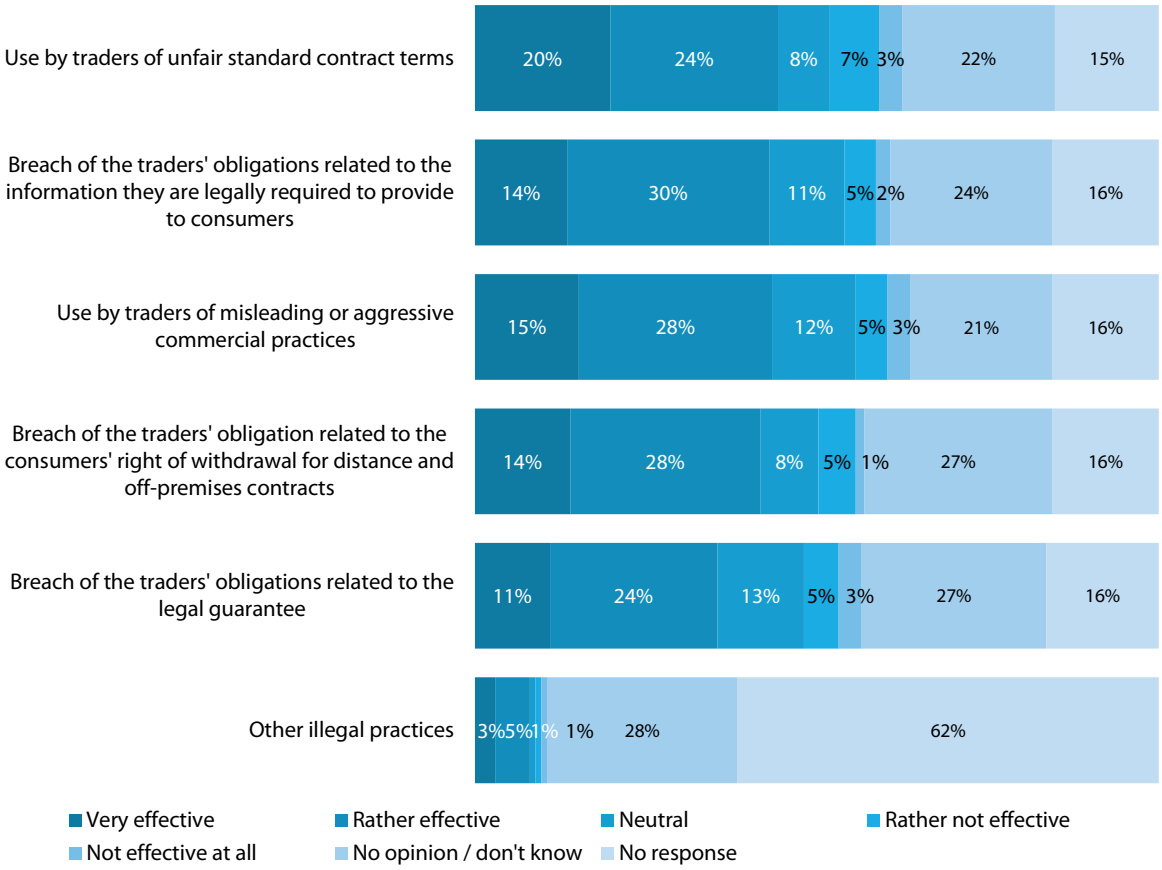
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are the following consumer redress/enforcement mechanisms in protecting consumer rights in the case of a breach of EU consumer and marketing rules?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than half of all respondent categories feel that an individual consumer obtaining redress through an administrative enforcement decision constitutes a very effective or rather effective means of protecting consumer rights in the event of a breach of EU consumer and marketing rules. 40% of public authorities view this measure as effective, compared to 27% of consumers, 26% of businesses, and 21% of business associations.

5.9. Views on the effectiveness of injunction actions against various illegal practices

The next set of questions asked respondents to assess the effectiveness of injunction actions sought against a variety of illegal practices. The figure below presents the distribution of assessments across all respondent categories.

Figure 30: Views on the effectiveness of injunction actions against various illegal practices



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are injunction actions sought against the following illegal practices?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, there was no type of illegal practice against which at least half of respondents considered injunction actions to be either very effective or rather effective. According to the respondents, injunctions were most effective against the use by traders of unfair standard contract terms (44%), breaches of traders' obligations related to the information they are legally required to provide to consumers (44%) and use by traders of misleading or aggressive commercial practices (43%).

In the comments section to this question, several respondents indicated that cost and time burdens must be reduced in order for injunctions to become more effective and beneficial for consumers. One Austrian consumer association also stated that further EU action on individual and collective redress is necessary. A Belgian business association stated that injunctions are overall an effective method for consumers to obtain redress, though it is essential that the same standards are upheld for all traders, regardless of size or place of establishment in the EU.

The table below presents the breakdown of assessments regarding the effectiveness of injunction actions against the use by traders of unfair standard contract terms by respondent category.

Table 66: Effectiveness of injunction actions against the use by traders of unfair standard contract terms (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	11%	**33%**	11%	14%	3%	11%	17%
Businesses	8%	**24%**	8%	16%	11%	16%	18%
Public authorities	18%	29%	0%	11%	0%	**32%**	11%
Consumer associations	**35%**	15%	0%	5%	10%	20%	15%
Business associations	26%	16%	9%	1%	1%	**28%**	19%
Other	21%	**41%**	10%	3%	0%	21%	3%
Total %	*20%*	***24%***	*8%*	*7%*	*3%*	*22%*	*15%*
Total number	*47*	*58*	*18*	*17*	*8*	*53*	*36*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are injunction actions sought against the following illegal practices?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, 62% of "other" respondents and 50% of consumer associations believe that injunction actions are either very effective or rather effective against the use by traders of unfair standard contract terms. Less than half of consumer respondents (44%), public authorities (47%) and business associations (42%) as well as 32% of business respondents also indicated as such.

The table below presents the breakdown of assessments regarding the effectiveness of injunction actions against breaches of traders' obligations related to the information they are legally required to provide to consumers by respondent category.

Table 67: Effectiveness of injunction actions against breaches of traders' obligations related to the information they are legally required to provide to consumers (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	0%	**44%**	11%	11%	3%	14%	17%
Businesses	5%	**32%**	16%	5%	5%	18%	18%
Public authorities	21%	**36%**	0%	4%	0%	29%	11%
Consumer associations	15%	**30%**	5%	10%	0%	25%	15%
Business associations	20%	19%	12%	0%	2%	**29%**	19%
Other	14%	**34%**	17%	7%	0%	21%	7%
Total %	*14%*	***30%***	*11%*	*5%*	*2%*	*24%*	*16%*
Total number	*32*	*70*	*26*	*11*	*5*	*56*	*37*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are injunction actions sought against the following illegal practices?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 57% of public authorities agree that injunction actions are either very effective or rather effective against breaches of traders' obligations related to the information they are legally required to provide to consumers. For all other respondent types, a minority considered injunction actions to be effective in this regard.

The table below presents the breakdown of assessments regarding the effectiveness of injunction actions against the use by traders of misleading or aggressive commercial practices by respondent category.

Table 68: Effectiveness of injunction actions against the use by traders of misleading or aggressive commercial practices (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	6%	**33%**	22%	11%	3%	8%	17%
Businesses	5%	**21%**	**21%**	8%	8%	16%	**21%**
Public authorities	18%	**39%**	4%	0%	0%	29%	11%
Consumer associations	15%	**30%**	0%	15%	5%	20%	15%
Business associations	23%	20%	9%	0%	3%	**26%**	19%
Other	14%	**45%**	14%	3%	0%	21%	3%
Total %	*15%*	***28%***	*12%*	*5%*	*3%*	*21%*	*16%*
Total number	*36*	*67*	*29*	*11*	*8*	*49*	*37*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are injunction actions sought against the following illegal practices?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 57% of public authorities, 45% of consumer associations and 39% of consumers agree that injunction actions are either very effective or rather effective against the use of misleading or aggressive commercial practices by traders. Less than one-third (26%) of business respondents also agree as such. 20% of consumer associations indicated that injunctions were rather not or not at all effective.

The table below presents the breakdown of assessments regarding the effectiveness of injunction actions against breaches of traders' obligations related to consumers' right of withdrawal for distance and off-premises contracts by respondent category.

Table 69: Effectiveness of injunction actions against breaches of traders' obligations related to consumers' right of withdrawal for distance and off-premises contracts (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	6%	**36%**	8%	11%	3%	19%	17%
Businesses	5%	**29%**	11%	11%	3%	24%	18%
Public authorities	25%	**29%**	4%	4%	0%	**29%**	11%
Consumer associations	10%	**35%**	0%	10%	5%	25%	15%
Business associations	19%	19%	8%	0%	0%	**35%**	20%
Other	14%	**38%**	17%	7%	0%	21%	3%
Total %	*14%*	***28%***	*8%*	*5%*	*1%*	***27%***	*16%*
Total number	*33*	*66*	*20*	*13*	*3*	*65*	*37*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are injunction actions sought against the following illegal practices?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 54% of public authorities indicated that injunction actions are either very effective or rather effective against breaches of traders' obligations related to consumers' right of withdrawal for distance and off-premises contracts. 45% of consumer associations and 42% of consumers found injunction actions to be effective in this regard, compared to 38% of business associations and 34% of businesses.

The table below presents the breakdown of assessments regarding the effectiveness of injunction actions against breaches of traders' obligations related to legal guarantees by respondent category.

Table 70: Effectiveness of injunction actions against breaches of traders' obligations related to legal guarantees (by category of respondent)

Respondent category	Very effective	Rather effective	Neutral	Rather not effective	Not at all effective	No opinion/ don't know	No response
Consumers	3%	**39%**	14%	11%	3%	14%	17%
Businesses	8%	**29%**	16%	8%	0%	21%	18%
Public authorities	14%	21%	11%	0%	7%	**36%**	11%
Consumer associations	5%	15%	10%	15%	15%	**25%**	15%
Business associations	14%	19%	9%	0%	1%	**35%**	22%
Other	17%	**28%**	21%	7%	3%	21%	3%
Total %	*11%*	*24%*	*13%*	*5%*	*3%*	***27%***	*16%*
Total number	*26*	*58*	*30*	*12*	*8*	*64*	*39*

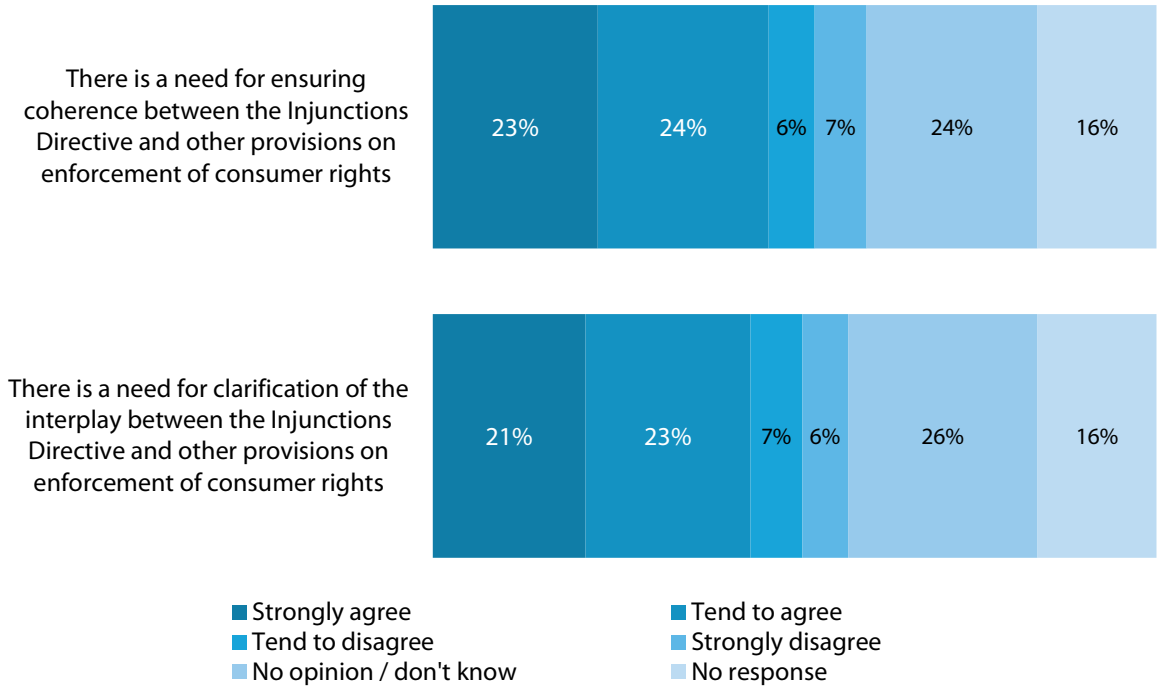
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How effective are injunction actions sought against the following illegal practices?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, fewer than half of respondents of each type consider injunction actions to be effective against breaches of traders' obligations regarding legal guarantees. Just 20% of consumer associations agree that injunction actions were effective in this regard, compared to 35% of public authorities and 42% of consumers.

5.10. Views on the interplay between the Injunctions Directive and the provisions on the enforcement of consumer rights included in other Directives

The next set of questions asked respondents to assess the interplay between the Injunctions Directive and provisions on the enforcement of consumer rights in other directives covered by the public consultation questionnaire. The figure below presents the distribution of assessments across all respondent categories.

Figure 31: Views on the interplay between the Injunctions Directive and the provisions on the enforcement of consumer rights included in other Directives



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between the Injunctions Directive and the provisions on the enforcement of consumer rights included in other Directives covered by this questionnaire?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, close to half of respondents agree that there is a need for ensuring coherence between the injunctions Directive and other provisions on enforcement of consumer rights (47%) and that there is a need for clarification of the interplay between the Injunctions Directive and other provisions on enforcement of consumer rights (44%). In the case of both statements, at least 40% of respondents either did not answer the question or selected "no opinion/don't know".

Few specific comments were provided on the questions in this section; most of the respondents that provided comments on this section did not see any specific problems with the current interplay between the Injunctions Directive and other provisions on the enforcement of consumer rights, but supported the general aim of improving coherence between legislation. Public authorities and consumer organisations were an exception, and made the following specific points:

- Public authorities in Estonia and Austria recommended improving coherence between the Injunctions Directive and the CPC Regulation;
- A public authority in Belgium saw the need to improve the coherence between the Injunctions Directive and the ADR Directive;
- Consumer organisations in Germany and Portugal emphasised that while injunctions are effective tools to stop individual violations of consumer law, they are not necessarily an effective tool to enforce consumer law in general due to the limited scope of their application (to a particular trader).

The table below presents the breakdown of assessments regarding the statement that there is a need for ensuring coherence between the Injunctions Directive and other provisions on enforcement of consumer rights by respondent category.

Table 71: Assessment of the need for ensuring coherence between the Injunctions Directive and other provisions on enforcement of consumer rights (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**31%**	28%	3%	6%	17%	17%
Businesses	**32%**	21%	0%	0%	29%	18%
Public authorities	**36%**	14%	7%	7%	21%	14%
Consumer associations	30%	**35%**	5%	5%	20%	5%
Business associations	8%	20%	8%	12%	**30%**	22%
Other	28%	**34%**	14%	7%	10%	7%
Total %	*23%*	*24%*	*6%*	*7%*	***24%***	*16%*
Total number	*54*	*56*	*15*	*17*	*56*	*39*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between the Injunctions Directive and the provisions on the enforcement of consumer rights included in other Directives covered by this questionnaire?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of most respondent categories either strongly agree or tend to agree that there is a need to ensure coherence between the Injunctions Directive and other provisions on the enforcement of consumer rights. 65% of consumer associations agree with this statement, as do 62% of "other" respondents, 59% of consumer respondents, and 53% of business respondents.

The table below presents the breakdown of assessments regarding the statement that <u>there is a need for clarification of the interplay between the Injunctions Directive and other provisions on enforcement of consumer rights</u> by respondent category.

Table 72: Assessment of the need for clarifying the interplay between the Injunctions Directive and other provisions on enforcement of consumer rights (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	31%	**33%**	3%	3%	14%	17%
Businesses	**29%**	24%	0%	0%	**29%**	18%
Public authorities	**29%**	21%	7%	4%	25%	14%
Consumer associations	**45%**	20%	15%	0%	15%	5%
Business associations	5%	17%	8%	12%	**36%**	22%
Other	24%	**28%**	14%	10%	17%	7%
Total %	*21%*	*23%*	*7%*	*6%*	***26%***	*16%*
Total number	*50*	*54*	*17*	*15*	*62*	*39*

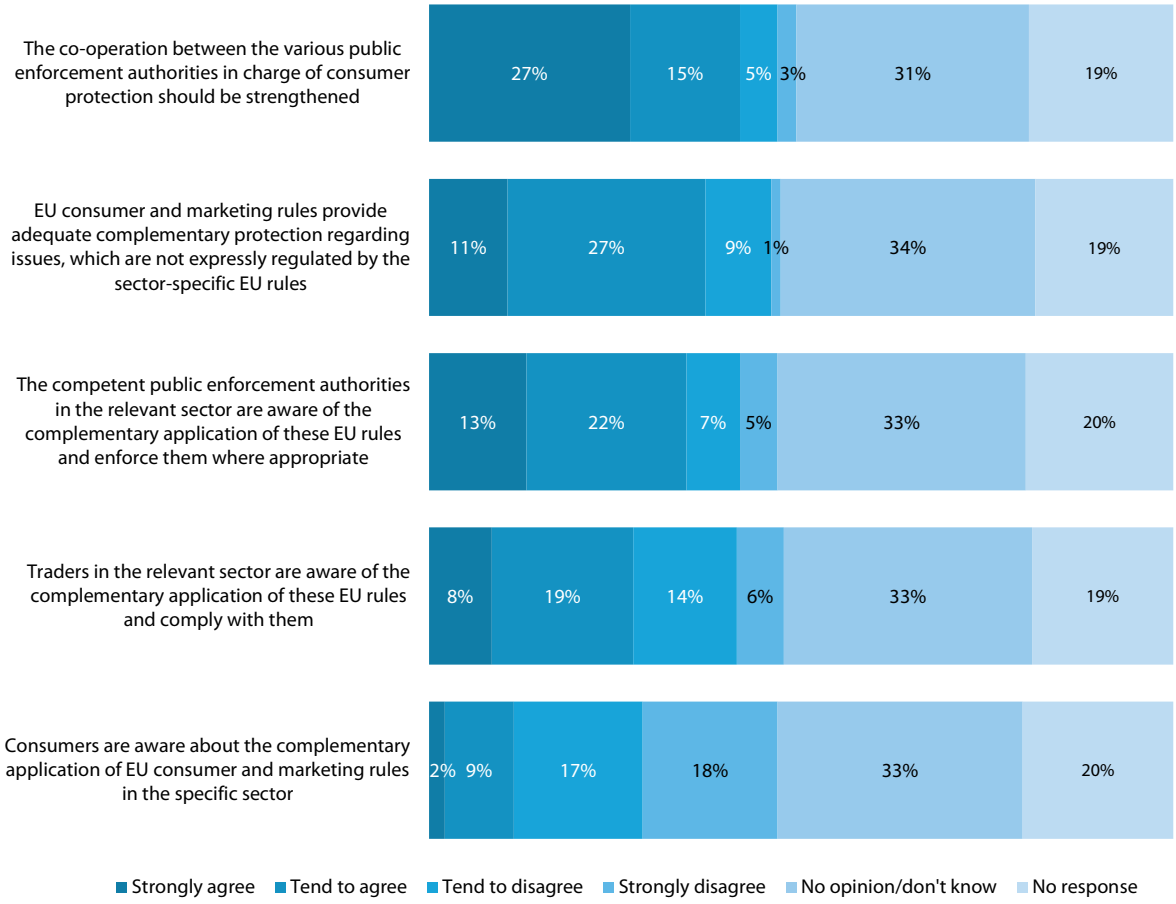
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between the Injunctions Directive and the provisions on the enforcement of consumer rights included in other Directives covered by this questionnaire?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, at least half of all respondent categories except for business associations either strongly agree or tend to agree that there is a need to clarify the interplay between the Injunctions Directive and other provisions on the enforcement of consumer rights. 65% of consumer associations agree with this statement, as do 64% of consumers and 53% of business respondents. In contrast, 22% of business associations agree with this statement, compared with 36% of the same category that selected "no opinion/don't know."

5.11. Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services

Respondents were next asked to assess the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in several areas. The figure below presents the distribution of assessments across all respondent categories in the area of consumer financial services.

Figure 32: Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services



Source: Public consultation for the Fitness Check of EU consumer and marketing law. Question: *How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, fewer than half (42%) of respondents either strongly agree or tend to agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of consumer financial services. 38% of respondents agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in this area. In contrast, only 11% of respondents agree that consumers are aware of the complementary application of EU consumer and marketing rules in the consumer financial services sector. For all statements, more than 50% of respondents either did not respond or answered with "no opinion/don't know."

Respondents were given the opportunity to provide further details regarding the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services in the comments field. The following general trends could be observed in the comments:

- Consumer associations in Austria, Portugal and at the EU level provided similar responses, noting that the financial sector scores low on European-wide assessments with respect to consumer trust and satisfaction. They suggested that further simplification and standardisation may help consumers choose between complex financial products, and emphasised the

need to improve the quality of enforcement of consumer law in the financial services sector;

- Consumer associations in France and Germany noted that consumers' lack of knowledge of their rights in the financial services sector is a barrier to the effective enforcement of consumer law, given that enforcement is often complaint-driven;
- Public authorities in the Czech Republic, Estonia, Sweden and France commented that the minimum harmonisation nature of the horizontal directives works well, and that cooperation between enforcement authorities at the domestic level is already adequate;
- Businesses and business authorities generally wrote that they perceived too much overlap between sector-specific and horizontal consumer law, and would welcome a streamlining exercise.

The table below presents the breakdown of assessments regarding the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of consumer financial services by respondent category.

Table 73: Assessment of whether the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of consumer financial services (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**50%**	11%	8%	3%	11%	17%
Businesses	18%	18%	3%	0%	**39%**	21%
Public authorities	**43%**	21%	11%	0%	14%	11%
Consumer associations	**55%**	15%	5%	0%	20%	5%
Business associations	9%	7%	5%	5%	**44%**	30%
Other	28%	**31%**	0%	3%	**31%**	7%
Total %	*27%*	*15%*	*5%*	*3%*	***31%***	*19%*
Total number	*64*	*35*	*12*	*6*	*74*	*46*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most consumer associations (70%), consumer respondents (61%) and public authorities (64%) either strongly agree or tend to agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened with respect to consumer financial services. 36% of business respondents and 16% of business associations agree, while at least 60% of each of these respondent types selected "no opinion/don't know".

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of consumer financial services by respondent category.

Table 74: Assessment of whether EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of consumer financial services (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	11%	**31%**	17%	6%	19%	17%
Businesses	8%	13%	8%	0%	**50%**	21%
Public authorities	14%	**57%**	4%	0%	14%	11%
Consumer associations	5%	**50%**	20%	5%	15%	5%
Business associations	14%	12%	3%	0%	**43%**	28%
Other	3%	**38%**	14%	0%	**38%**	7%
Total %	*11%*	*27%*	*9%*	*1%*	***34%***	*19%*
Total number	*25*	*63*	*21*	*3*	*81*	*44*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 71% of public authorities either strongly agree or tend to agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules. 55% of consumer associations and 42% of consumer respondents also indicated agreement. Only 26% of business associations and 21% of businesses agree, with a large number of these respondent types selecting "no opinion/don't know".

The table below presents the breakdown of assessments regarding the statement that the competent public enforcement authorities in the consumer financial services sector are aware of the complementary application of these EU rules and enforce them where appropriate by respondent category.

Table 75: Assessment of whether the competent public enforcement authorities in the consumer financial services sector are aware of the complementary application of these EU rules and enforce them where appropriate (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	6%	**25%**	22%	11%	17%	19%
Businesses	5%	18%	3%	5%	**47%**	21%
Public authorities	25%	**39%**	4%	7%	14%	11%
Consumer associations	10%	**35%**	0%	10%	30%	15%
Business associations	19%	8%	3%	1%	**41%**	28%
Other	7%	**34%**	14%	3%	**34%**	7%
Total %	*13%*	*22%*	*7%*	*5%*	***33%***	*20%*
Total number	*31*	*51*	*17*	*12*	*79*	*47*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 64% of public authorities, 45% of consumer associations and 31% of consumers either strongly agree or tend to agree that the competent public enforcement authorities in the consumer financial services sector are aware of the complementary application of these EU rules and enforce them where appropriate. In contrast, less than 30% of either business associations or businesses agree, while a large number selected "no opinion/don't know".

The table below presents the breakdown of assessments regarding the statement that traders in the consumer financial services sector are aware of the complementary application of these EU rules and comply with them by respondent category.

Table 76: Assessment of whether traders in the consumer financial services sector are aware of the complementary application of these EU rules and comply with them (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	3%	**31%**	14%	17%	17%	19%
Businesses	3%	21%	11%	3%	**42%**	21%
Public authorities	4%	29%	**32%**	7%	18%	11%
Consumer associations	5%	15%	20%	10%	**45%**	5%
Business associations	16%	10%	2%	2%	**41%**	28%
Other	7%	21%	**31%**	7%	28%	7%
Total %	*8%*	*19%*	*14%*	*6%*	***33%***	*19%*
Total number	*20*	*45*	*33*	*15*	*79*	*45*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than one-third of all respondent categories either strongly agree or tend to agree that traders in the consumer financial services sector are aware of the complementary application of these EU rules and comply with them. For example, 34% of consumer respondents, 33% of public authorities, 26% of business associations and 20% of consumer organisations agree with this statement.

The table below presents the breakdown of assessments regarding the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the consumer financial services sector by respondent category.

Table 77: Assessment of whether consumers are aware of the complementary application of EU consumer and marketing rules in the consumer financial services sector (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	0%	11%	22%	**39%**	8%	19%
Businesses	0%	11%	16%	11%	**42%**	21%
Public authorities	0%	14%	**36%**	18%	21%	11%
Consumer associations	0%	10%	25%	**35%**	25%	5%
Business associations	5%	8%	3%	7%	**47%**	30%
Other	3%	3%	**31%**	24%	28%	10%
Total %	*2%*	*9%*	*17%*	*18%*	***33%***	*20%*
Total number	*5*	*22*	*41*	*43*	*78*	*48*

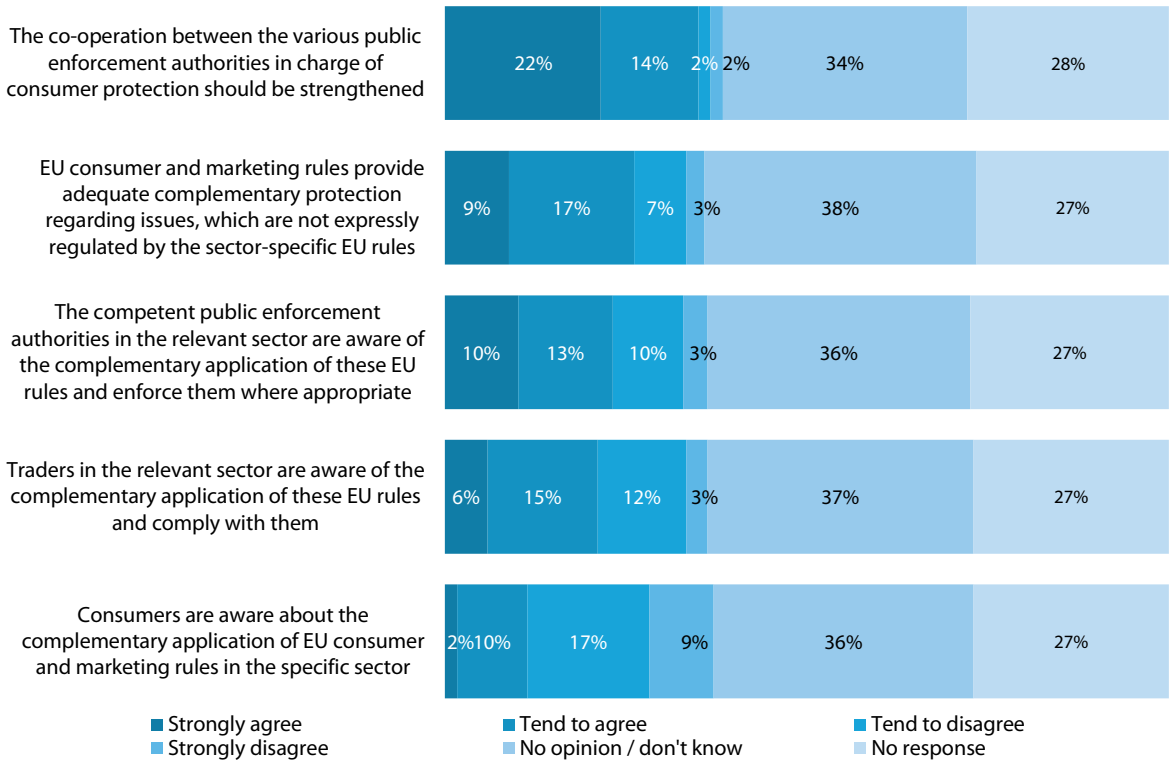
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of consumer financial services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than 15% of all respondent categories strongly agree or tend to agree with the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the consumer financial services sector. 11% of consumer respondents agree with this statement, while 61% either tend to disagree or strongly disagree.

5.12. Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport

Respondents were next asked to assess the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport. The figure below presents the distribution of assessments across all respondent categories.

Figure 33: Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, slightly more than one third (36%) of all respondents either strongly agree or tend to agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of passenger transport. 26% agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules and enforce them where appropriate. For all statements, close to two-thirds of respondents answered with "no opinion/don't know" or did not respond.

Respondents were asked to provide any additional details in the comments field. The following general trends can be determined from the comments submitted:

- Consumer associations in Austria, Portugal and at the EU level note that the passenger transport sector receives a high amount of complaints, and that enforcement in this sector is often lacking. Cooperation between sector-specific regulatory authorities and consumer authorities is a particular challenge, as sector-specific authorities are often unable to secure redress or compensation for consumers;
- Businesses and business associations in Austria, Belgium, France and Spain point out that for modes other than air travel, consumers are generally unaware of their rights. Business associations commented that cooperation between the relevant enforcement authorities in this sector is often lacking.

The table below presents the breakdown of assessments regarding the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of passenger transport by respondent category.

Table 78: Assessment of whether the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of passenger transport (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**39%**	19%	0%	0%	19%	22%
Businesses	26%	11%	3%	0%	**39%**	21%
Public authorities	**32%**	21%	4%	0%	25%	18%
Consumer associations	**40%**	35%	5%	0%	15%	5%
Business associations	6%	6%	0%	5%	**44%**	40%
Other	17%	10%	3%	0%	**34%**	**34%**
Total %	*22%*	*14%*	*2%*	*2%*	***34%***	*28%*
Total number	*51*	*32*	*4*	*4*	*80*	*66*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 75% of consumer associations and 58% of consumer respondents either strongly agree or tend to agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of passenger transport. 37% of businesses and 12% of business associations also indicated agreement, with large proportions not providing an opinion.

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by sector-specific EU rules in the area of passenger transport by respondent category.

Table 79: Assessment of whether EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of passenger transport (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	14%	11%	17%	11%	**28%**	19%
Businesses	8%	16%	11%	0%	**45%**	21%
Public authorities	4%	**50%**	4%	0%	25%	18%
Consumer associations	15%	**40%**	15%	10%	10%	10%
Business associations	9%	3%	3%	0%	**48%**	36%
Other	3%	21%	0%	0%	**41%**	34%
Total %	*9%*	*17%*	*7%*	*3%*	***38%***	*27%*
Total number	*21*	*41*	*17*	*6*	*89*	*63*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 54% of public authorities and 55% of consumer associations either strongly agree or tend to agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of passenger transport. Only 25% of consumers agree with this statement, with 28% indicating that they disagree.

The table below presents the breakdown of assessments regarding the statement that <u>the competent public enforcement authorities in the passenger transport sector are aware of the complementary application of these EU rules and enforce them where appropriate</u> by respondent category.

Table 80: Assessment of whether the competent public enforcement authorities in the passenger transport sector are aware of the complementary application of these EU rules and enforce them where appropriate (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	11%	17%	17%	8%	**25%**	22%
Businesses	11%	8%	16%	0%	**45%**	21%
Public authorities	21%	21%	11%	0%	**29%**	18%
Consumer associations	5%	**25%**	**25%**	20%	20%	5%
Business associations	10%	6%	2%	0%	**43%**	38%
Other	0%	21%	3%	3%	**38%**	34%
Total %	*10%*	*13%*	*10%*	*3%*	***36%***	*27%*
Total number	*24*	*31*	*23*	*8*	*86*	*65*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Less than half (42%) of public authorities strongly agree or tend to agree that the competent public enforcement authorities in the passenger transport sector are aware of the complementary application of these EU rules and enforce them where appropriate. 28% of consumer respondents also agreed. Large proportions of respondents in all categories did not provide an opinion or response.

The table below presents the breakdown of assessments regarding the statement that traders in the passenger transport sector are aware of the complementary application of these EU rules and comply with them by respondent category.

Table 81: Assessment of whether traders in the passenger transport sector are aware of the complementary application of these EU rules and comply with them (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	3%	22%	19%	8%	**28%**	19%
Businesses	8%	11%	16%	3%	**42%**	21%
Public authorities	4%	**32%**	14%	4%	29%	18%
Consumer associations	5%	20%	**35%**	5%	30%	5%
Business associations	8%	8%	2%	0%	**43%**	38%
Other	3%	14%	10%	3%	**34%**	**34%**
Total %	*6%*	*15%*	*12%*	*3%*	***37%***	*27%*
Total number	*14*	*36*	*29*	*7*	*87*	*64*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than half of all respondent categories strongly agree or tend to agree with the statement that traders in the passenger transport sector are aware of the complementary application of these EU rules and comply with them. Specifically, 36% of public authorities and 25% of both consumers and consumer associations agree with this statement. Only 19% of businesses and 16% of business associations agree, with more than 60% declining to provide an opinion or response.

The table below presents the breakdown of assessments regarding the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the passenger transport sector by respondent category.

Table 82: Assessment of whether consumers are aware of the complementary application of EU consumer and marketing rules in the passenger transport sector (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	0%	17%	**22%**	19%	**22%**	19%
Businesses	0%	8%	21%	11%	**39%**	21%
Public authorities	0%	18%	**29%**	7%	**29%**	18%
Consumer associations	0%	20%	**35%**	15%	25%	5%
Business associations	5%	3%	7%	1%	**45%**	38%
Other	0%	7%	10%	14%	**34%**	**34%**
Total %	*2%*	*10%*	*17%*	*9%*	***36%***	*27%*
Total number	*4*	*23*	*40*	*21*	*85*	*64*

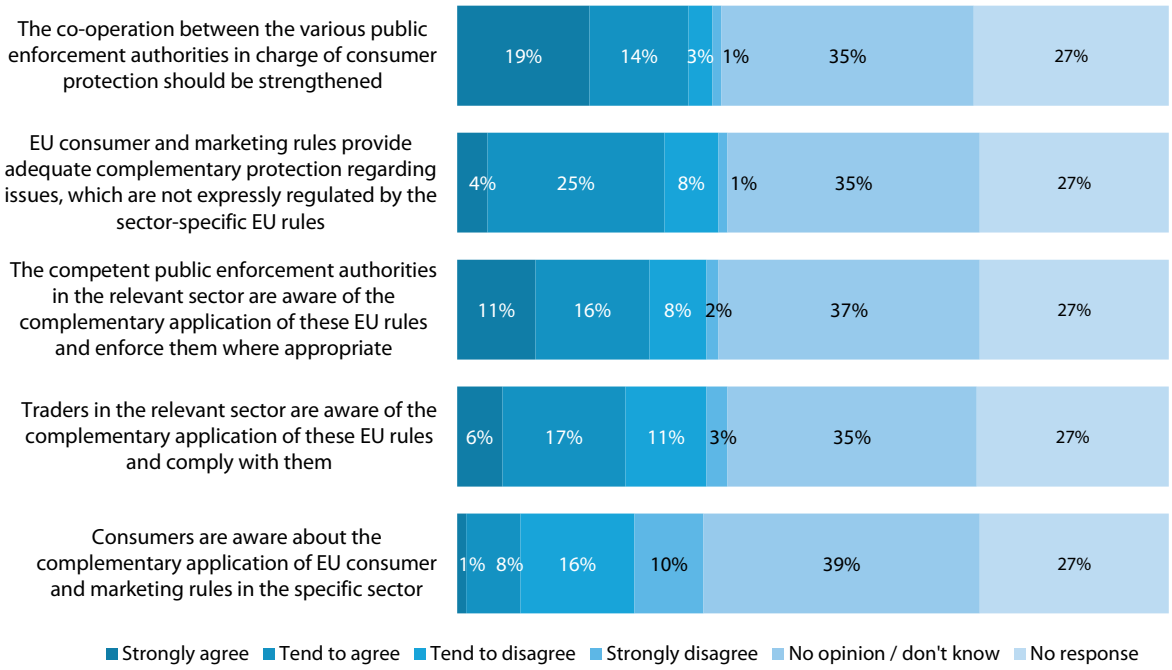
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of passenger transport?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than one-quarter of all respondents either strongly agree or tend to agree with the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the passenger transport sector. 18% of public authorities, 20% of consumer associations and 17% of consumer respondents agree with this statement. Half of consumer associations (50%) and two fifths of consumer respondents (41%) either tend to disagree or strongly disagree with this statement.

5.13. Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply

Respondents were next asked to assess the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply. The figure below presents the distribution of assessments across all respondent categories.

Figure 34: Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, one third or less of all respondents either strongly agree or tend to agree with all of the statements presented with respect to energy supply (specifically, electricity and gas). For example, 33% of respondents agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of energy supply; 29% of respondents agree that EU consumer and marketing rules provide adequate complementary protection regarding issues that are not expressly regulated by sector-specific EU rules. More than half of all respondents did not respond or answered with "no opinion/don't know" in response to all statements.

Few relevant comments were provided by the respondents in this section. Most indicated that they did not have sufficient experience to comment on the interplay between horizontal and sector-specific legislation in this area. Among the comments received, the following relevant trends could be identified:

- Consumer associations commented that cooperation between enforcement authorities in the energy supply sector should be improved. A consumer association in Portugal also indicated that information presented to consumers should be simplified and standardised in order to allow consumers to compare offers between energy retailers;
- Businesses and business associations suggested that cooperation between enforcement authorities in this sector could be further improved.

The table below presents the breakdown of assessments regarding the statement that <u>the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of energy supply</u> by respondent category.

Table 83: Assessment of whether the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of energy supply (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**39%**	11%	8%	3%	17%	22%
Businesses	13%	16%	3%	0%	**42%**	26%
Public authorities	**32%**	29%	7%	0%	21%	11%
Consumer associations	**40%**	30%	0%	0%	25%	5%
Business associations	3%	7%	1%	2%	**48%**	38%
Other	17%	10%	3%	0%	**34%**	**34%**
Total %	*19%*	*14%*	*3%*	*1%*	***35%***	*27%*
Total number	*44*	*33*	*8*	*3*	*84*	*65*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, at least half of consumer associations (70%), public authorities (61%) and consumer respondents (50%) strongly agree or tend to agree with the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of energy supply. At least a third of "other" respondents (34%), business respondents (42%) and business associations (48%) replied with "no opinion/don't know".

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by sector-specific EU rules in the area of energy supply by respondent category.

Table 84: Assessment of whether EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of energy supply (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	3%	**28%**	22%	6%	22%	19%
Businesses	3%	21%	11%	0%	**39%**	26%
Public authorities	4%	**64%**	4%	0%	18%	11%
Consumer associations	0%	**45%**	10%	5%	30%	10%
Business associations	8%	10%	1%	0%	**44%**	36%
Other	0%	17%	7%	0%	**41%**	34%
Total %	*4%*	*25%*	*8%*	*1%*	***35%***	*27%*
Total number	*10*	*59*	*18*	*3*	*84*	*63*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 68% of public authorities and slightly less than half (45%) of consumer associations either strongly agree or tend to agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of energy supply. 31% of consumers and 24% of businesses also agree.

The table below presents the breakdown of assessments regarding the statement that <u>the competent public enforcement authorities in the energy supply sector are aware of the complementary application of these EU rules and enforce them where appropriate</u> by respondent category.

Table 85: Assessment of whether the competent public enforcement authorities in the energy supply sector are aware of the complementary application of these EU rules and enforce them where appropriate (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	8%	19%	**22%**	6%	**22%**	**22%**
Businesses	8%	16%	5%	3%	**42%**	26%
Public authorities	**29%**	25%	18%	0%	18%	11%
Consumer associations	10%	15%	10%	5%	**55%**	5%
Business associations	10%	9%	1%	0%	**43%**	36%
Other	3%	24%	3%	0%	**34%**	**34%**
Total %	*11%*	*16%*	*8%*	*2%*	***37%***	*27%*
Total number	*26*	*38*	*19*	*4*	*87*	*63*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, public authorities were the only respondent type in which a majority (54%) either strongly agree or tended to agree with the statement that the competent public enforcement authorities in the energy supply sector are aware of the complementary application of these EU rules and enforce them where appropriate. Less than 30% of all other respondent types agree with this statement.

The table below presents the breakdown of assessments regarding the statement that traders in the energy sector are aware of the complementary application of these EU rules and comply with them by respondent category.

Table 86: Assessment of whether traders in the energy supply sector are aware of the complementary application of these EU rules and comply with them (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	3%	22%	**25%**	3%	22%	**25%**
Businesses	8%	16%	5%	5%	**39%**	26%
Public authorities	4%	**39%**	21%	7%	18%	11%
Consumer associations	5%	10%	30%	10%	**40%**	5%
Business associations	8%	12%	1%	0%	**43%**	36%
Other	7%	14%	10%	0%	**34%**	**34%**
Total %	*6%*	*17%*	*11%*	*3%*	***35%***	*27%*
Total number	*15*	*41*	*27*	*7*	*83*	*64*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than half of all respondent types agree with the statement that traders in the energy supply sector are aware of the complementary application of these EU rules and comply with them. Most in agreement are the public authorities (43%), followed by consumer respondents (25%) and business respondents (24%).

The table below presents the breakdown of assessments regarding the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the energy supply sector by respondent category.

Table 87: Assessment of whether consumers are aware of the complementary application of EU consumer and marketing rules in the energy supply sector (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	0%	8%	**31%**	19%	19%	22%
Businesses	0%	16%	8%	8%	**42%**	26%
Public authorities	0%	18%	**32%**	14%	25%	11%
Consumer associations	0%	10%	15%	30%	**40%**	5%
Business associations	3%	2%	8%	0%	**50%**	36%
Other	0%	0%	17%	10%	**38%**	34%
Total %	*1%*	*8%*	*16%*	*10%*	***39%***	*27%*
Total number	*3*	*18*	*38*	*23*	*92*	*63*

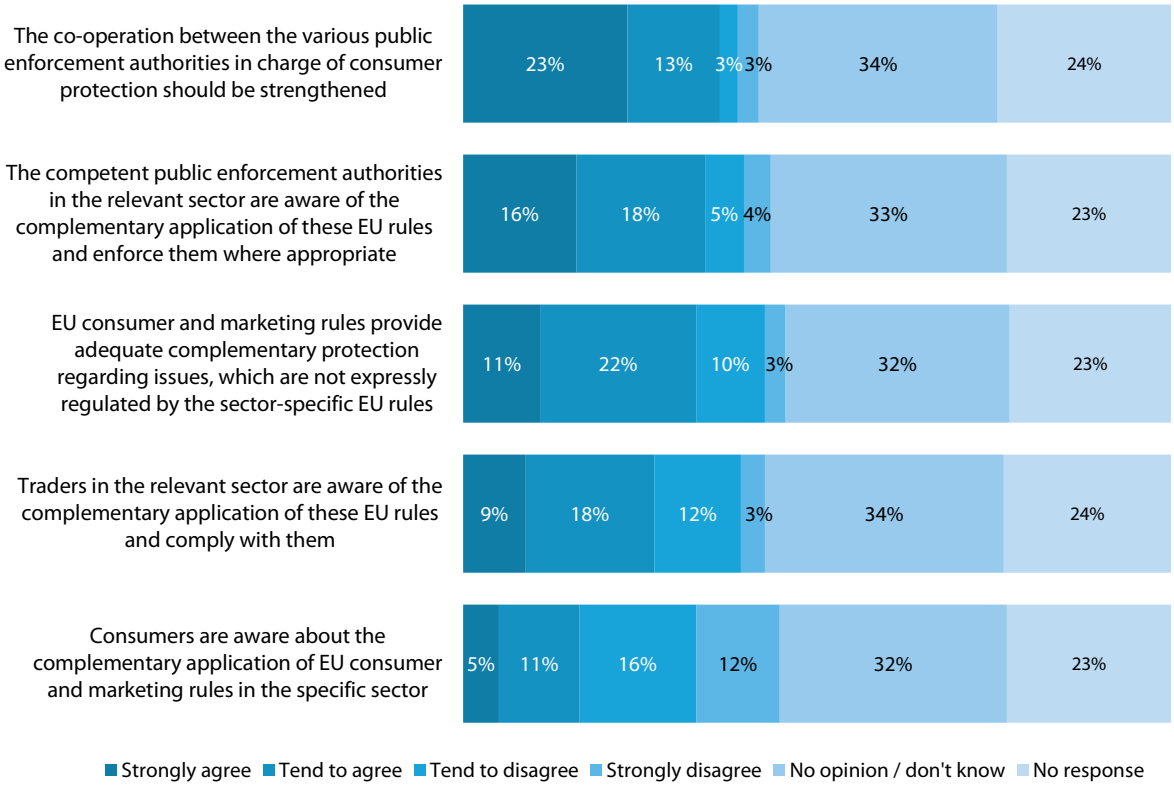
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of energy supply?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than 20% of all respondent categories strongly agree or tend to agree that consumers are aware of the complementary application of EU consumer and marketing rules in the energy supply sector. 18% of public authorities agree with this statement, as do 16% of businesses. 8% of consumers indicated that they agree with the statement, with 50% disagreeing. Large proportions of most respondent categories either did not respond or answered with "no opinion/don't know".

5.14. Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services

Respondents were subsequently asked to assess the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services. The figure below presents the distribution of assessments across all respondent categories.

Figure 35: Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, 36% of all respondents strongly agree or tend to agree with the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of electronic communications services. 34% of all respondents also agree that the competent public enforcement authorities in the electronic communications services are aware of the complementary application of these EU rules and enforce them where appropriate.

Respondents were invited to provide further details on their responses on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services in the comments section. The following general trends could be identified:

- European-level and national consumer organisations commented that while they believe that traders are aware of the law, they continue to receive consumer complaints regarding trader compliance. Consumer associations indicated that in the area of electronic communications services, many of these complaints related to non-conformity of services with the original contract, switching service providers, and contract termination. An Italian consumer organisation noted that most of the complaints they receive relate to the telecommunications sector;
- Consumer organisations at the EU level and in Germany suggested that in the area of electronic communications services, the principles of "privacy by

design" and "privacy by default" should be considered criteria for the validity of certain sales contracts;

- Businesses and business associations in the UK, Belgium and Italy saw a need to further clarify cooperation between enforcement authorities, particularly in the UK. Business associations also argued that consumer protection in this sector should be dealt with in horizontal rather than sector-specific legislation.

The table below presents the breakdown of assessments regarding the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of electronic communications services by respondent category.

Table 88: Assessment of whether the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of electronic communications services (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**42%**	17%	6%	3%	8%	25%
Businesses	18%	8%	5%	3%	**47%**	18%
Public authorities	**43%**	21%	4%	0%	18%	14%
Consumer associations	**50%**	20%	5%	0%	25%	0%
Business associations	7%	8%	0%	6%	**47%**	33%
Other	17%	17%	0%	0%	**31%**	34%
Total %	*23%*	*13%*	*3%*	*3%*	***34%***	*24%*
Total number	*55*	*31*	*6*	*7*	*80*	*58*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, a majority of consumer associations (70%), public authorities (64%) and consumer respondents (59%) either strongly agree or tend to agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of electronic communications services. Fewer than 30% of businesses and business associations agree, with nearly 50% selecting "no opinion/don't know".

The table below presents the breakdown of assessments regarding the statement that the competent public enforcement authorities in the electronic communications services sector are aware of the complementary application of these EU rules and enforce them where appropriate by respondent category.

Table 89: Assessment of whether the competent public enforcement authorities in the electronic communications services sector are aware of the complementary application of these EU rules and enforce them where appropriate (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	11%	**31%**	19%	8%	8%	22%
Businesses	3%	24%	3%	5%	**47%**	18%
Public authorities	**43%**	21%	4%	4%	14%	14%
Consumer associations	15%	20%	15%	10%	**40%**	0%
Business associations	19%	7%	0%	1%	**43%**	30%
Other	7%	24%	3%	0%	31%	**34%**
Total %	*16%*	*18%*	*5%*	*4%*	***33%***	*23%*
Total number	*38*	*43*	*13*	*9*	*79*	*55*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, nearly two-thirds (64%) of public authorities and more than two out of five consumer respondents (42%) either strongly agree or tend to agree that the competent public enforcement authorities in the electronic communications services sector are aware of the complementary application of these EU rules and enforce them where appropriate. Least in agreement are businesses (27%) and business associations (26%); however, more than 60% of these respondent types either did not respond or provided no opinion.

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by sector-specific EU rules in the area of electronic communications services by respondent category.

Table 90: Assessment of whether EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of electronic communications services (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	6%	**36%**	17%	3%	17%	22%
Businesses	8%	11%	8%	8%	**47%**	18%
Public authorities	14%	**50%**	7%	0%	14%	14%
Consumer associations	25%	**35%**	25%	5%	10%	0%
Business associations	14%	9%	6%	1%	**41%**	29%
Other	0%	21%	7%	3%	**34%**	**34%**
Total %	*11%*	*22%*	*10%*	*3%*	***32%***	*23%*
Total number	*26*	*52*	*23*	*7*	*75*	*54*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, about two-thirds of public authorities (64%), 60% of consumer associations and 42% of consumer respondents agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of electronic communications services.

The table below presents the breakdown of assessments regarding the statement that traders in the electronic communications services sector are aware of the complementary application of these EU rules and comply with them by respondent category.

Table 91: Assessment of whether traders in the electronic communications services sector are aware of the complementary application of these EU rules and comply with them (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	6%	**25%**	22%	6%	17%	**25%**
Businesses	8%	13%	11%	3%	**47%**	18%
Public authorities	0%	**43%**	25%	4%	14%	14%
Consumer associations	5%	15%	25%	20%	**35%**	0%
Business associations	15%	9%	2%	0%	**43%**	30%
Other	7%	21%	10%	0%	28%	**34%**
Total %	*9%*	*18%*	*12%*	*3%*	***34%***	*24%*
Total number	*21*	*43*	*29*	*8*	*80*	*56*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 43% of public authorities and 31% of consumer respondents either strongly agree or tend to agree with the statement that traders in the electronic communications services sector are aware of the complementary application of these EU rules and comply with them. 24% of business associations and 21% of business respondents and 20% of consumer associations also indicated agreement.

The table below presents the breakdown of assessments regarding the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the electronic communications services sector by respondent category.

Table 92: Assessment of whether consumers are aware of the complementary application of EU consumer and marketing rules in the electronic communications services sector (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	3%	14%	**31%**	22%	8%	22%
Businesses	0%	5%	16%	13%	**47%**	18%
Public authorities	4%	25%	**32%**	4%	21%	14%
Consumer associations	0%	**30%**	20%	25%	25%	0%
Business associations	12%	5%	7%	5%	**42%**	30%
Other	0%	10%	10%	17%	28%	**34%**
Total %	*5%*	*11%*	*16%*	*12%*	***32%***	*23%*
Total number	*12*	*27*	*39*	*28*	*76*	*55*

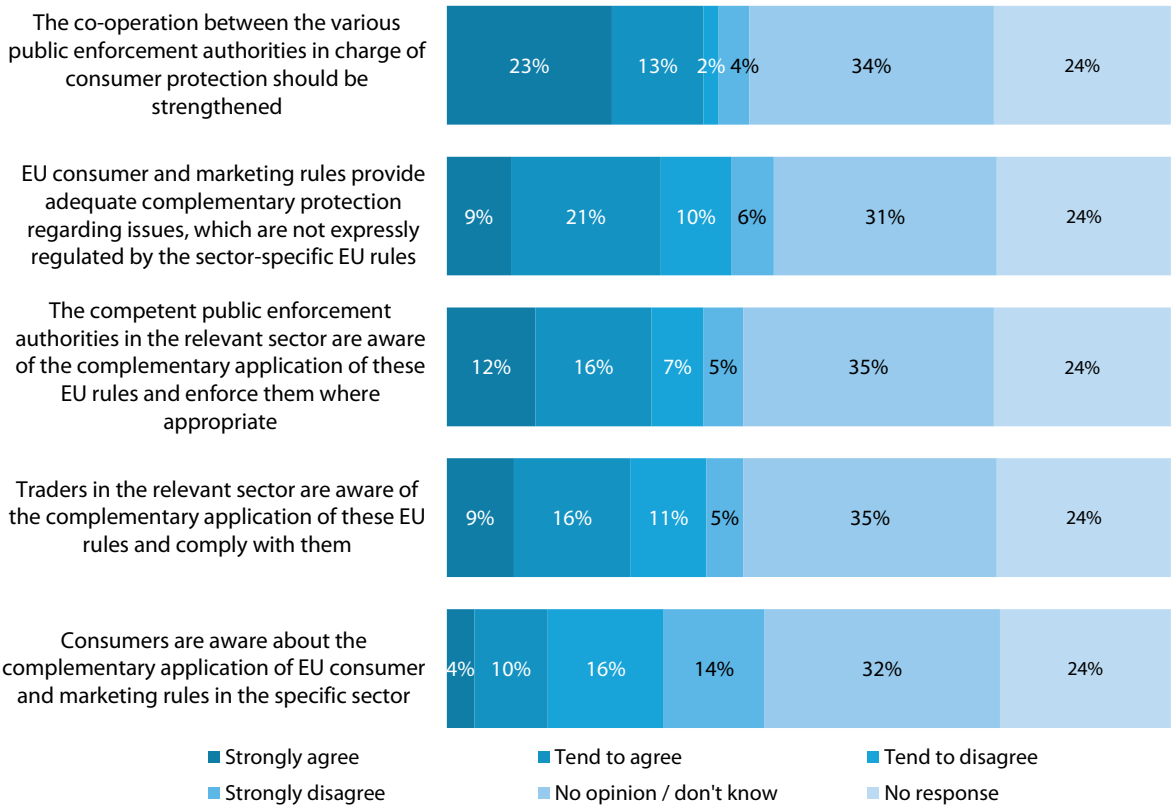
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of electronic communications services?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 30% of consumer associations, 29% of public authorities and 17% of consumers strongly agree or tend to agree that consumers are aware of the complementary application of EU consumer and marketing rules in the electronic communications services sector. In contrast, only 5% of business respondents agree with this statement, while 47% of this category selected "no opinion/don't know".

5.15. Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection

Respondents were subsequently asked to assess the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection (rules on Ecodesign, energy labelling, car labelling, emission limits for vehicles, etc.). The figure below presents the distribution of assessments across all respondent categories.

Figure 36: Views on the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

According to the figure above, 36% of all respondents either strongly agree or tend to agree with the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened with respect to environmental protection. 30% of all respondents also agree with the statement that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of environmental protection. More than 50% of respondents did not provide an answer or answered with "no opinion/don't know" across all statements.

In the open text section for this question, the following general trends could be discerned from the respondents' comments:

- Consumer organisations in Austria, Belgium, Germany and Portugal commented that the UCPD provided important supplementary protection, but was not specific enough to protect consumers from misleading environmental claims. These consumer organisations, as well as an individual consumer in Germany, cited the 2016 Volkswagen scandal as an indication that sector-specific legislation in this area needs to be revised to improve consumer protection. Consumer organisations in Austria and at the EU level furthermore argued that the Volkswagen case demonstrates the need for an EU-wide system of redress for mass damages;
- While a number of public authorities commented that they did not have sufficient experience in this area, two authorities in the Netherlands and

Belgium commented that the implementation and/or enforcement of consumer law in the area of environmental protection should be improved;

- Business stakeholders that indicated having experience in this area generally thought that trader awareness and EU legislation related to environmental protection was already sufficient. However, two business associations in Germany and at the European level commented that the burden of complying with bureaucratic requirements under sector-specific Directives (in particular the Waste Electrical and Electronic Equipment Directive) made cross-border trade less attractive.

The table below presents the breakdown of assessments regarding the statement that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of environmental protection by respondent category.

Table 93: Assessment of whether the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of environmental protection (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**53%**	8%	0%	6%	11%	22%
Businesses	13%	8%	3%	5%	**47%**	24%
Public authorities	**43%**	18%	4%	0%	21%	14%
Consumer associations	40%	**45%**	0%	0%	15%	0%
Business associations	6%	8%	3%	7%	**44%**	31%
Other	17%	10%	0%	0%	**38%**	34%
Total %	*23%*	*13%*	*2%*	*4%*	***34%***	*24%*
Total number	*54*	*30*	*5*	*10*	*80*	*58*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, a majority of consumer associations (85%), consumer respondents (61%) and public authorities (61%) either strongly agree or tend to agree that the cooperation between the various public enforcement authorities in charge of consumer protection should be strengthened in the area of environmental protection.

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by sector-specific EU rules in the area of environmental protection by respondent category.

Table 94: Assessment of whether EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of environmental protection (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	6%	22%	17%	19%	11%	**25%**
Businesses	3%	24%	5%	3%	**42%**	24%
Public authorities	7%	**43%**	14%	0%	21%	14%
Consumer associations	5%	**35%**	25%	20%	15%	0%
Business associations	16%	10%	6%	1%	**37%**	29%
Other	3%	14%	3%	3%	**41%**	34%
Total %	*9%*	*21%*	*10%*	*6%*	***31%***	*24%*
Total number	*21*	*49*	*23*	*14*	*73*	*57*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 50% of public authorities, 40% of consumer associations and 27% of businesses and 26% of business associations either strongly agree or tend to agree that EU consumer and marketing rules provide adequate complementary protection regarding issues which are not expressly regulated by the sector-specific EU rules in the area of environmental protection. 28% of consumers also agree in this respect.

The table below presents the breakdown of assessments regarding the statement that the competent public enforcement authorities in the environmental protection sector are aware of the complementary application of these EU rules and enforce them where appropriate by respondent category.

Table 95: Assessment of whether the competent public enforcement authorities in the environmental protection sector are aware of the complementary application of these EU rules and enforce them where appropriate (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	11%	17%	11%	**25%**	11%	**25%**
Businesses	8%	16%	3%	5%	**42%**	26%
Public authorities	11%	**36%**	11%	0%	29%	14%
Consumer associations	10%	15%	30%	10%	**35%**	0%
Business associations	20%	8%	2%	0%	**41%**	29%
Other	0%	21%	3%	0%	**41%**	34%
Total %	*12%*	*16%*	*7%*	*5%*	***35%***	*24%*
Total number	*29*	*38*	*17*	*13*	*82*	*58*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, slightly over half of public authorities either strongly agree or tend to agree that the competent public enforcement authorities in the environmental protection sector are aware of the complementary application of these EU rules and enforce them where appropriate. 47% of public authorities agree with this statement, compared to less than 30% of respondents of all other types. 40% of consumer associations and 36% of consumers disagree with this statement.

The table below presents the breakdown of assessments regarding the statement that traders in the environmental protection sector are aware of the complementary application of these EU rules and comply with them by respondent category.

Table 96: Assessment of whether traders in the environmental protection sector are aware of the complementary application of these EU rules and comply with them (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	6%	19%	19%	17%	14%	**25%**
Businesses	11%	13%	11%	3%	**39%**	24%
Public authorities	0%	**32%**	18%	7%	29%	14%
Consumer associations	0%	15%	10%	15%	**60%**	0%
Business associations	17%	13%	3%	0%	**37%**	29%
Other	3%	10%	14%	0%	**38%**	34%
Total %	*9%*	*16%*	*11%*	*5%*	***35%***	*24%*
Total number	*22*	*38*	*25*	*12*	*83*	*57*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

30% of business associations and 24% of businesses strongly agree or tend to agree that traders in the environmental protection sector are aware of the complementary application of these EU rules and comply with them. At least one-third in all respondent types either did not respond or responded to this statement with "no opinion/don't know".

The table below presents the breakdown of assessments regarding the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the environmental protection sector by respondent category.

Table 97: Assessment of whether consumers are aware of the complementary application of EU consumer and marketing rules in the environmental protection sector (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	0%	14%	19%	**36%**	8%	22%
Businesses	3%	13%	11%	8%	**42%**	24%
Public authorities	0%	11%	**39%**	4%	32%	14%
Consumer associations	0%	15%	20%	**50%**	15%	0%
Business associations	9%	7%	12%	1%	**42%**	29%
Other	0%	7%	7%	17%	**34%**	**34%**
Total %	*4%*	*10%*	*16%*	*14%*	***32%***	*24%*
Total number	*9*	*24*	*38*	*33*	*77*	*56*

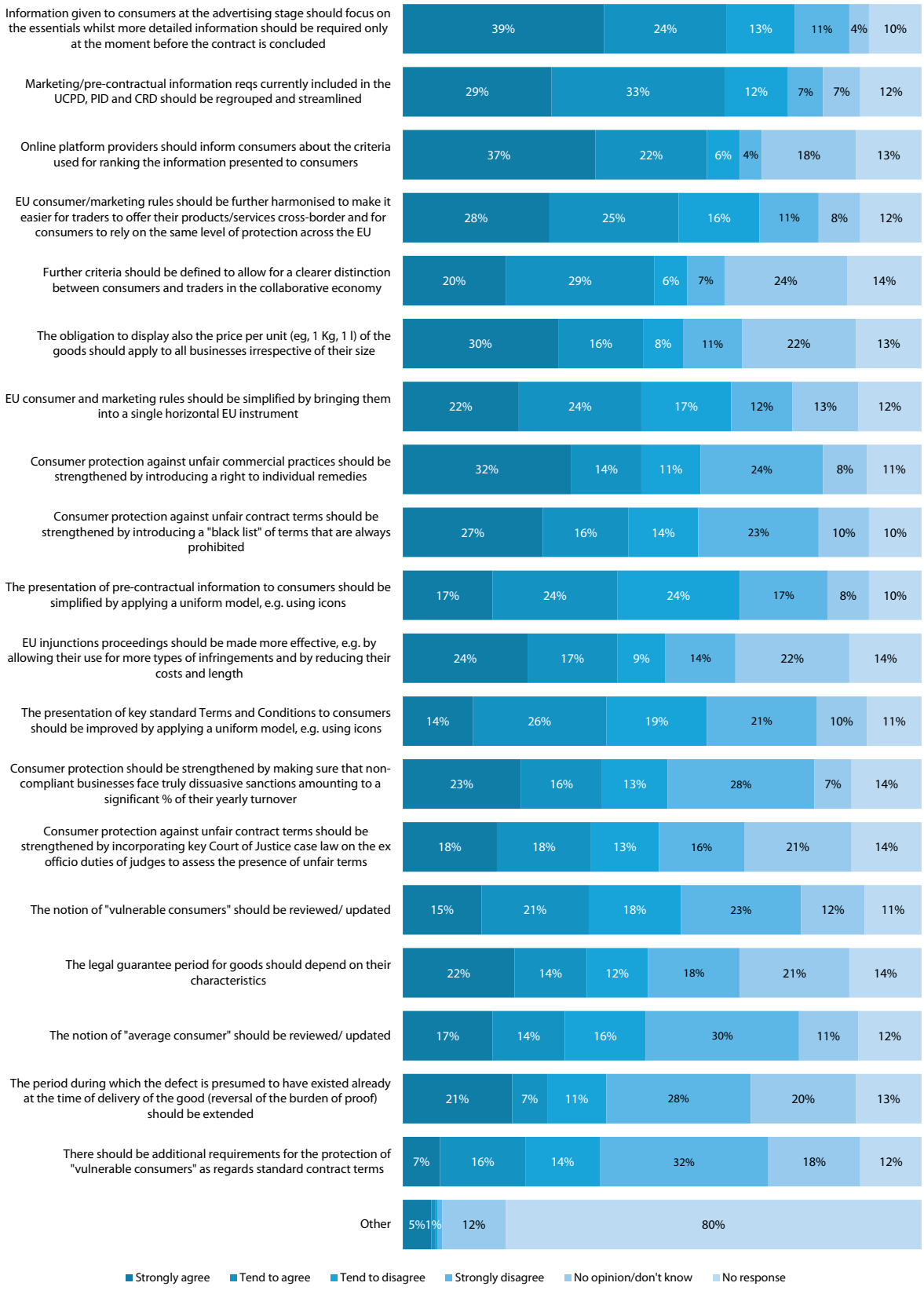
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about the interplay between EU consumer and marketing rules and EU sector-specific consumer rights in the area of environmental protection?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, less than 20% of all respondent categories either strongly agree or tend to agree with the statement that consumers are aware of the complementary application of EU consumer and marketing rules in the environmental protection sector. For example, only 14% of consumers agree, while 55% disagree.

5.16. Views on potential areas to improve EU consumer and marketing rules for the benefit of consumers

In the next set of questions, respondents were asked to indicate their opinions regarding potential ways of improving EU consumer and marketing rules for the benefit of consumers. The figure below presents the distribution of assessments across all respondent categories.

Figure 37: Views on potential areas to improve EU consumer and marketing rules for the benefit of consumers



Source: Public consultation for the Fitness Check of EU consumer and marketing law. Question: *How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, the areas for improvement with respect to EU consumer and marketing rules that respondents strongly agree with/tend to agree with the most are "the information given to consumers at the advertising stage should focus on the essentials while more detailed information should be required only at the moment before the contract is concluded" (63% of respondents), "the marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined" (62% of respondents) and "online platform providers should inform consumers about the criteria used for ranking the information presented to consumers" (59% of respondents). The area for improvement that respondents strongly agree with/tend to agree with the least is "there should be additional requirements for the protection of 'vulnerable consumers' as regards standard contract terms" (23% of respondents).

Respondents were given the option to explain their responses or provide suggestions for other areas where the current EU consumer and marketing rules should be improved. More than half of the respondents to the full survey (141 in total) chose to provide additional comments. A summary of general themes by respondent group follows.

Among the comments provided by **consumer organisations and individual consumers**, the following general themes could be identified:

- The most common comment, mentioned by both consumer organisations and individual consumers in the Czech Republic, Germany, Slovakia, Romania, the UK and at the EU level, was the need to extend the guarantee period beyond two years for certain durable goods (for example, cars or large household appliances);
- Consumer organisations in Austria, France, Germany, Portugal, the UK and at the EU level emphasised the need to make enforcement and redress a priority, in particular by making the injunction process simpler and less costly, and by introducing a right to individual remedies and introducing dissuasive sanctions;
- Consumer organisations in Austria, France, Germany, Portugal and at the EU level argued that revisions to EU consumer law should be kept at the minimum harmonisation level to avoid lowering protection in Member States that already have a high level of protection;
- Consumer organisations in the Czech Republic, Germany and the UK commented that the "average consumer" and "vulnerable consumer" concepts are inadequate to describe the reality faced by consumers;
- Consumer organisations in Austria, Germany, Portugal and at the EU level emphasised the need for clear and honest information to help consumers make appropriate decisions.

Among the comments provided by **business associations and individual businesses**, the following general themes could be identified:

- The most common comment from business associations and individual businesses is that they see no need to change the existing Directives. In particular, respondents mentioned the length of the legal guarantee, length of time for the reversal of the burden of proof, and the average and vulnerable consumer concepts as aspects that should not be changed;
- Where businesses and business associations did indicate a desire to change the existing Directives, as expressed for example by respondents from Austria, Finland, France, Germany, Italy, Spain, the UK, and at the EU level, most thought this should be done with the intent to streamline the

consumer acquis and remove overlaps, particularly with respect to information requirements;

- Business respondents in Austria, France, the UK and at the EU level expressed the need for better enforcement of existing rules and better cooperation between enforcement authorities across Member States;
- A number of business associations and businesses in Finland, Sweden, the UK and at the EU level also called for more clarity on the application of consumer law to online platforms, and argued that the ranking criteria on online comparison tools should be made more transparent.

Among the comments provided by **public authorities and other organisations**, the following general themes could be identified:

- While public authorities emphasised the importance of information for consumers, there were diverging opinions regarding how to deal with information requirements. While public authorities in Austria, Finland and Latvia argued that information presented to consumers should be simplified, other authorities in Belgium, the Czech Republic, Estonia and Romania expressed scepticism regarding the practicality of introducing models for standard terms and conditions or models based on icons;
- Public authorities in Austria, Belgium, Denmark, and Finland argued that the length of the legal guarantee period or the length of time for the reversal of the burden of proof for guarantees should be increased;
- Public authorities in Austria, Finland, France and Norway expressed the need to revisit “average consumer” and/or “vulnerable consumer” concepts to bring them more in line with the consumer reality.

The table below presents the breakdown of assessments regarding the statement that <u>the information given to consumers at the advertising stage should focus on the essentials while more detailed information should be required only at the moment before the contract is concluded</u> by respondent category.

Table 98: Assessment of whether the information given to consumers at the advertising stage should focus on the essentials while more detailed information should be required only at the moment before the contract is concluded (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	8%	19%	**25%**	**25%**	0%	22%
Businesses	**45%**	18%	11%	11%	0%	16%
Public authorities	21%	**32%**	21%	11%	4%	11%
Consumer associations	10%	35%	**40%**	10%	0%	5%
Business associations	**62%**	20%	3%	5%	5%	6%
Other	**38%**	31%	3%	10%	14%	3%
Total %	***39%***	*24%*	*13%*	*11%*	*4%*	*10%*
Total number	*92*	*56*	*31*	*25*	*9*	*24*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of business associations (82%), business respondents (63%) and "other" respondents (69%) either strongly agree or tend to agree that the information given to consumers at the advertising stage should focus on the essentials while more detailed information should be required only at the moment before the contract is concluded. Only 45% of consumer associations and 27% of consumer respondents agree with this statement, with 50% of both consumer associations and consumers either tending to disagree or strongly disagreeing in this respect.

The table below presents the breakdown of assessments regarding the statement that the marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined by respondent category.

Table 99: Assessment of whether the marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**36%**	31%	6%	6%	3%	19%
Businesses	26%	**34%**	5%	13%	5%	16%
Public authorities	**36%**	32%	11%	7%	4%	11%
Consumer associations	30%	**35%**	30%	0%	0%	5%
Business associations	20%	**36%**	14%	8%	10%	12%
Other	**41%**	28%	14%	0%	14%	3%
Total %	*29%*	***33%***	*12%*	*7%*	*7%*	*12%*
Total number	*68*	*79*	*29*	*16*	*17*	*28*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of all respondent categories either strongly agree or tend to agree that the marketing/pre-contractual information requirements currently included in the Unfair Commercial Practices Directive, Price Indication Directive and Consumer Rights Directive should be regrouped and streamlined. For example, 67% of consumer respondents, 68% of public authorities and 60% of business respondents agree with this statement.

The table below presents the breakdown of assessments regarding the statement that online platform providers should inform consumers about the criteria used for ranking the information presented to consumers by respondent category.

Table 100: Assessment of whether online platform providers should inform consumers about the criteria used for ranking the information presented to consumers (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**44%**	17%	6%	3%	6%	25%
Businesses	**42%**	21%	11%	8%	8%	11%
Public authorities	**46%**	21%	7%	0%	14%	11%
Consumer associations	**80%**	15%	0%	0%	0%	5%
Business associations	20%	27%	6%	6%	**29%**	13%
Other	**34%**	17%	7%	3%	31%	7%
Total %	***37%***	*22%*	*6%*	*4%*	*18%*	*13%*
Total number	*88*	*51*	*15*	*10*	*43*	*30*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 95% of consumer associations, 63% of businesses and 61% of consumers either strongly agree or tend to agree that online platform providers should inform consumers about the criteria used for ranking the information presented to consumers. Over half of all other respondent categories except business associations also agree with this statement.

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules should be further harmonised to make it easier for traders to offer their products/services cross-border and for consumers to rely on the same level of protection across the EU by respondent category.

Table 101: Assessment of whether EU consumer and marketing rules should be further harmonised to make it easier for traders to offer their products/services cross-border and for consumers to rely on the same level of protection across the EU (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**50%**	22%	6%	3%	0%	19%
Businesses	**39%**	32%	3%	3%	5%	18%
Public authorities	**32%**	21%	11%	14%	11%	11%
Consumer associations	**30%**	15%	**30%**	15%	5%	5%
Business associations	13%	**30%**	19%	16%	12%	10%
Other	28%	14%	**31%**	14%	10%	3%
Total %	***28%***	*25%*	*16%*	*11%*	*8%*	*12%*
Total number	*67*	*59*	*37*	*27*	*19*	*28*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most consumer respondents (72%) and business respondents (71%) strongly agree or tend to agree that EU consumer and marketing rules should be further harmonised to make it easier for traders to offer their products/services cross-border and for consumers to rely on the same level of protection across the EU. A minority of consumer associations (45%) and business associations (43%) agree.

The table below presents the breakdown of assessments regarding the statement that further criteria should be defined to allow for a clearer distinction between consumers and traders in the collaborative economy by respondent category.

Table 102: Assessment of whether further criteria should be defined to allow for a clearer distinction between consumers and traders in the collaborative economy (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**28%**	19%	14%	3%	14%	22%
Businesses	18%	**37%**	8%	5%	11%	21%
Public authorities	29%	**39%**	0%	0%	18%	14%
Consumer associations	30%	**60%**	0%	0%	5%	5%
Business associations	12%	17%	3%	15%	**37%**	15%
Other	21%	**31%**	14%	3%	**31%**	0%
Total %	*20%*	***29%***	*6%*	*7%*	*24%*	*14%*
Total number	*47*	*68*	*15*	*17*	*56*	*34*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of consumer associations (90%), public authorities (68%) and business respondents (55%) either strongly agree or tend to agree that further criteria should be defined to allow for a clearer distinction between consumers and traders in the collaborative economy. A minority of consumers (47%) and business associations (29%) agree.

The table below presents the breakdown of assessments regarding the statement that the obligation to display also the price per unit (e.g. 1 kg, 1 l) of the goods should apply to all businesses irrespective of their size by respondent category.

Table 103: Assessment of whether the obligation to display also the price per unit of the goods should apply to all businesses irrespective of their size (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**67%**	6%	3%	3%	0%	22%
Businesses	21%	18%	11%	11%	**24%**	16%
Public authorities	**36%**	29%	4%	7%	14%	11%
Consumer associations	**65%**	15%	15%	0%	0%	5%
Business associations	12%	13%	5%	20%	**38%**	13%
Other	21%	**28%**	17%	10%	21%	3%
Total %	***30%***	*16%*	*8%*	*11%*	*22%*	*13%*
Total number	*71*	*39*	*18*	*27*	*52*	*30*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of consumer associations (80%), consumers (73%) and public authorities (65%) strongly agree or tend to agree that the obligation to display also the price per unit of the goods should apply to all businesses irrespective of their size. 39% of businesses and 25% of business associations agree.

The table below presents the breakdown of assessments regarding the statement that EU consumer and marketing rules should be simplified by bringing them into a single horizontal EU instrument by respondent category.

Table 104: Assessment of whether EU consumer and marketing rules should be simplified by bringing them into a single horizontal EU instrument (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**31%**	17%	11%	3%	17%	22%
Businesses	**34%**	29%	8%	5%	5%	18%
Public authorities	21%	**32%**	18%	11%	7%	11%
Consumer associations	**35%**	20%	25%	0%	15%	5%
Business associations	10%	**22%**	20%	**22%**	16%	9%
Other	**24%**	**24%**	**24%**	10%	10%	7%
Total %	*22%*	***24%***	*17%*	*12%*	*13%*	*12%*
Total number	*53*	*56*	*41*	*28*	*30*	*29*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 63% of businesses, 55% of consumer associations, and 53% of public authorities strongly agree or tend to agree that EU consumer and marketing rules should be simplified by bringing them into a single horizontal EU instrument. For all other respondent types, slightly less than half agree.

The table below presents the breakdown of assessments regarding the statement that consumer protection against unfair commercial practices should be strengthened by introducing a right to individual remedies (e.g. compensation and/or invalidity of the contract when the consumer has been misled into signing a disadvantageous contract) by respondent category.

Table 105: Assessment of whether consumer protection against unfair commercial practices should be strengthened by introducing a right to individual remedies (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**61%**	14%	0%	3%	0%	22%
Businesses	**24%**	21%	13%	**24%**	3%	16%
Public authorities	**54%**	21%	4%	4%	7%	11%
Consumer associations	**85%**	10%	0%	0%	0%	5%
Business associations	2%	8%	19%	**45%**	17%	8%
Other	**41%**	14%	17%	21%	7%	0%
Total %	***32%***	*14%*	*11%*	*24%*	*8%*	*11%*
Total number	*77*	*32*	*27*	*56*	*20*	*25*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 95% of consumer associations either strongly agree or tend to agree that consumer protection against unfair commercial practices should be strengthened by introducing a right to individual remedies. A majority of consumer respondents (75%) and public authorities (75%) also agree with this statement. Businesses and business associations are divided, with 45% of businesses but only 10% of business associations agreeing. 37% of businesses and 64% of business associations either tend to disagree or strongly disagree with this statement.

The table below presents the breakdown of assessments regarding the statement that consumer protection against unfair contract terms should be strengthened by introducing a "black list" of terms that are always prohibited by respondent category.

Table 106: Assessment of whether consumer protection against unfair contract terms should be strengthened by introducing a "black list" of terms that are always prohibited (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**50%**	11%	8%	3%	6%	22%
Businesses	**34%**	13%	16%	18%	3%	16%
Public authorities	**39%**	29%	4%	7%	11%	11%
Consumer associations	**70%**	20%	0%	5%	0%	5%
Business associations	3%	14%	14%	**47%**	15%	7%
Other	17%	21%	**34%**	14%	14%	0%
Total %	***27%***	*16%*	*14%*	*23%*	*10%*	*10%*
Total number	*64*	*39*	*32*	*55*	*23*	*24*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority (90%) of consumer associations and consumers (61%) either strongly agree or tend to agree that consumer protection against unfair contract terms should be strengthened by introducing a "black list" of terms that are always prohibited. Among business-side respondents, there is a division of opinion between businesses and business associations, with 47% of businesses but only 17% of business associations agreeing with the statement.

The table below presents the breakdown of assessments regarding the statement that <u>the presentation of pre-contractual information to consumers should be simplified by applying a uniform model</u> (e.g. using icons) by respondent category.

Table 107: Assessment of whether the presentation of pre-contractual information to consumers should be simplified by applying a uniform model (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**33%**	25%	8%	11%	0%	22%
Businesses	16%	**26%**	21%	18%	3%	16%
Public authorities	18%	**29%**	25%	7%	11%	11%
Consumer associations	30%	**45%**	20%	0%	0%	5%
Business associations	8%	15%	**30%**	26%	14%	7%
Other	17%	**28%**	**28%**	17%	10%	0%
Total %	*17%*	***24%***	***24%***	*17%*	*8%*	*10%*
Total number	*41*	*57*	*56*	*40*	*19*	*24*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Most consumer associations (75%) and consumer respondents (58%) strongly agree or tend to agree with the statement that the presentation of pre-contractual information to consumers should be simplified by applying a uniform model. For all other respondent types, less than half agree. Among business associations, 56% either tend to disagree or strongly disagree.

The table below presents the breakdown of assessments regarding the statement that EU injunction proceedings should be made more effective (e.g. by allowing their use for more types of infringements and by reducing their costs and length) by respondent category.

Table 108: Assessment of whether EU injunction proceedings should be made more effective (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**47%**	19%	3%	3%	3%	25%
Businesses	**29%**	16%	18%	5%	13%	18%
Public authorities	25%	**32%**	0%	0%	29%	14%
Consumer associations	**60%**	20%	0%	0%	15%	5%
Business associations	2%	10%	12%	29%	**34%**	13%
Other	**28%**	21%	14%	14%	21%	3%
Total %	***24%***	*17%*	*9%*	*14%*	*22%*	*14%*
Total number	*57*	*41*	*22*	*32*	*52*	*33*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of consumer associations (80%), consumers (66%) and public authorities (57%) either strongly agree or tend to agree that EU injunction proceedings should be made more effective. 45% of businesses agree, compared to only 12% of business associations.

The table below presents the breakdown of assessments regarding the statement that the presentation of key standard terms and conditions to consumers should be improved by applying a uniform model (e.g. using icons) by respondent category.

Table 109: Assessment of whether the presentation of key standard terms and conditions to consumers should be improved by applying a uniform model (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**36%**	25%	3%	11%	3%	22%
Businesses	11%	**29%**	21%	18%	3%	18%
Public authorities	18%	**39%**	18%	7%	7%	11%
Consumer associations	15%	**35%**	30%	0%	15%	5%
Business associations	2%	19%	22%	**35%**	15%	7%
Other	17%	**24%**	**24%**	**24%**	10%	0%
Total %	*14%*	***26%***	*19%*	*21%*	*10%*	*11%*
Total number	*32*	*61*	*46*	*50*	*23*	*25*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most consumer respondents (61%) and public authorities (57%) strongly agree or tend to agree that the presentation of key standard terms and conditions to consumers should be improved by applying a uniform model. 50% of consumer associations also agree with this statement. However, only 40% of businesses and 21% of business associations agree in this respect.

The table below presents the breakdown of assessments regarding the statement that consumer protection should be strengthened by making sure that non-compliant businesses face truly dissuasive sanctions amounting to a significant percentage of their yearly turnover by respondent category.

Table 110: Assessment of whether consumer protection should be strengthened by making sure that non-compliant businesses face truly dissuasive sanctions amounting to a significant percentage of their yearly turnover (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**50%**	17%	8%	3%	0%	22%
Businesses	13%	16%	**24%**	21%	5%	21%
Public authorities	**39%**	29%	7%	4%	7%	14%
Consumer associations	**70%**	25%	0%	0%	0%	5%
Business associations	1%	5%	15%	**60%**	7%	12%
Other	17%	**28%**	10%	17%	24%	3%
Total %	*23%*	*16%*	*13%*	***28%***	*7%*	*14%*
Total number	*54*	*37*	*30*	*67*	*17*	*32*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, 95% of consumer associations strongly agree or tend to agree that consumer protection should be strengthened by making sure that non-compliant businesses face truly dissuasive sanctions amounting to a significant percentage of their yearly turnover. A majority of consumer respondents (67%) and public authorities (68%) also agree with this statement. In contrast, only 6% of business associations agree in this respect; rather, the majority of business associations (75%) disagree with this statement. Among individual businesses, 29% agree and 45% disagree.

The table below presents the breakdown of assessments regarding the statement that consumer protection against unfair contract terms should be strengthened by incorporating key Court of Justice case law on the ex officio duties of judges to assess the presence of unfair terms by respondent category.

Table 111: Assessment of whether consumer protection against unfair contract terms should be strengthened by incorporating key Court of Justice case law on the ex officio duties of judges to assess the presence of unfair terms (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**28%**	**28%**	3%	8%	11%	22%
Businesses	13%	**21%**	**21%**	**21%**	8%	16%
Public authorities	**39%**	21%	7%	0%	18%	14%
Consumer associations	**50%**	40%	0%	0%	5%	5%
Business associations	3%	6%	16%	24%	**35%**	15%
Other	14%	21%	21%	**24%**	21%	0%
Total %	*18%*	*18%*	*13%*	*16%*	***21%***	*14%*
Total number	*43*	*43*	*31*	*39*	*49*	*32*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, nearly all (90%) of consumer associations strongly agree or tend to agree that consumer protection against unfair contract terms should be strengthened by incorporating key Court of Justice case law on the ex officio duties of judges to assess the presence of unfair terms. 56% of consumer respondents and 60% of public authorities also agree with this statement. 34% of businesses and only 9% of business associations agree.

The table below presents the breakdown of assessments regarding the statement that the notion of "vulnerable consumers" should be reviewed/updated by respondent category.[19]

[19] Under current EU law vulnerable consumers are those that are particularly vulnerable to unfair commercial practices because of their mental or physical infirmity, age or credulity.

Table 112: Assessment of whether the notion of "vulnerable consumers" should be reviewed/updated (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**31%**	28%	3%	6%	11%	22%
Businesses	16%	16%	**18%**	**18%**	13%	**18%**
Public authorities	29%	**46%**	7%	4%	4%	11%
Consumer associations	30%	**45%**	10%	0%	10%	5%
Business associations	1%	7%	21%	**48%**	15%	8%
Other	14%	17%	**41%**	14%	14%	0%
Total %	*15%*	*21%*	*18%*	***23%***	*12%*	*11%*
Total number	*36*	*49*	*42*	*55*	*29*	*26*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most public authorities (75%), consumer associations (75%) and consumer respondents (59%) strongly agree or tend to agree that the notion of "vulnerable consumers" should be reviewed or updated. 32% of businesses also agree, with 36% disagreeing. Only 8% of business associations agree with this statement, with 69% either tending to disagree or strongly disagreeing.

The table below presents the breakdown of assessments regarding the statement that the legal guarantee period for goods should depend on their characteristics by respondent category.

Table 113: Assessment of whether the legal guarantee period for goods should depend on their characteristics (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**44%**	8%	6%	8%	8%	25%
Businesses	**24%**	16%	5%	16%	**24%**	16%
Public authorities	11%	**32%**	21%	11%	14%	11%
Consumer associations	**50%**	35%	0%	10%	0%	5%
Business associations	8%	6%	8%	27%	**35%**	16%
Other	21%	10%	**38%**	17%	14%	0%
Total %	***22%***	*14%*	*12%*	*18%*	*21%*	*14%*
Total number	*51*	*33*	*28*	*42*	*50*	*33*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most consumer associations (85%) either strongly agree or tend to agree that the legal guarantee period for goods should depend on their characteristics. 52% of consumer respondents also agree with this statement. In contrast, only 14% of business associations agree, with more than half not responding or giving no opinion. Among businesses, 40% agree with this statement.

Respondents who agree with this statement were asked to indicate the goods and/or characteristics that this should apply to in the comments section. A Danish consumer association suggested that expected/advertised lifespan could be an adequate parameter for the length of guarantees — this opinion was shared by several respondents across categories and countries. Additionally, cars and large household appliances such as washing machines were put forth as relevant products for which legal guarantees should depend on characteristics.

The table below presents the breakdown of assessments regarding the statement that the notion of "average consumer" should be reviewed/updated by respondent category.[20]

[20] According to the case law of the EU Court of Justice, the average consumer is defined as reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors

Table 114: Assessment of whether the notion of "average consumer" should be reviewed/updated (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**33%**	19%	0%	11%	8%	28%
Businesses	13%	16%	**26%**	16%	11%	18%
Public authorities	**39%**	29%	7%	11%	4%	11%
Consumer associations	**50%**	20%	15%	5%	5%	5%
Business associations	1%	3%	15%	**55%**	16%	9%
Other	7%	17%	31%	**31%**	14%	0%
Total %	*17%*	*14%*	*16%*	***30%***	*11%*	*12%*
Total number	*41*	*33*	*37*	*70*	*27*	*29*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most public authorities (68%), consumer associations (70%) and consumer respondents (52%) either strongly agree or tend to agree that the notion of "average consumer" should be reviewed/updated. Only 4% of business associations agree with this statement, with 70% either tending to disagree or strongly disagreeing. Among businesses, 29% agree while 42% disagree.

The table below presents the breakdown of assessments regarding the statement that the period during which a defect is presumed to have existed already at the time of delivery of the good should be extended by respondent category.[21]

[21] This period is 6 months under current EU law, though it is longer in a few EU countries.

Table 115: Assessment of whether the period during which a defect is presumed to have existed already at the time of delivery of the good should be extended (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**39%**	17%	11%	6%	6%	22%
Businesses	3%	13%	18%	**24%**	**24%**	18%
Public authorities	**36%**	4%	18%	4%	25%	14%
Consumer associations	**90%**	0%	5%	0%	0%	5%
Business associations	0%	0%	6%	**51%**	31%	12%
Other	24%	14%	17%	**34%**	10%	0%
Total %	*21%*	*7%*	*11%*	***28%***	*20%*	*13%*
Total number	*50*	*16*	*27*	*66*	*48*	*30*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, most consumer associations (90%) and consumers (56%) strongly agree or tend to agree that the period during which a defect is presumed to have existed already at the time of delivery of the good should be extended. No business associations agree with this statement, with 57% either tending to disagree or strongly disagreeing, and the remainder either not providing a response or selecting "no opinion/don't know". Among businesses, 16% agree while 42% disagree.

The table below presents the breakdown of assessments regarding the statement that <u>there should be additional requirements for the protection of vulnerable consumers as regards standard contract terms</u> by respondent category.

Table 116: Assessment of whether there should be additional requirements for the protection of vulnerable consumers as regards standard contract terms (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	14%	**33%**	6%	8%	14%	25%
Businesses	8%	13%	18%	**29%**	11%	21%
Public authorities	21%	**25%**	11%	11%	21%	11%
Consumer associations	5%	**40%**	15%	5%	30%	5%
Business associations	1%	1%	10%	**59%**	20%	8%
Other	3%	21%	**34%**	28%	14%	0%
Total %	*7%*	*16%*	*14%*	***32%***	*18%*	*12%*
Total number	*17*	*39*	*34*	*77*	*42*	*28*

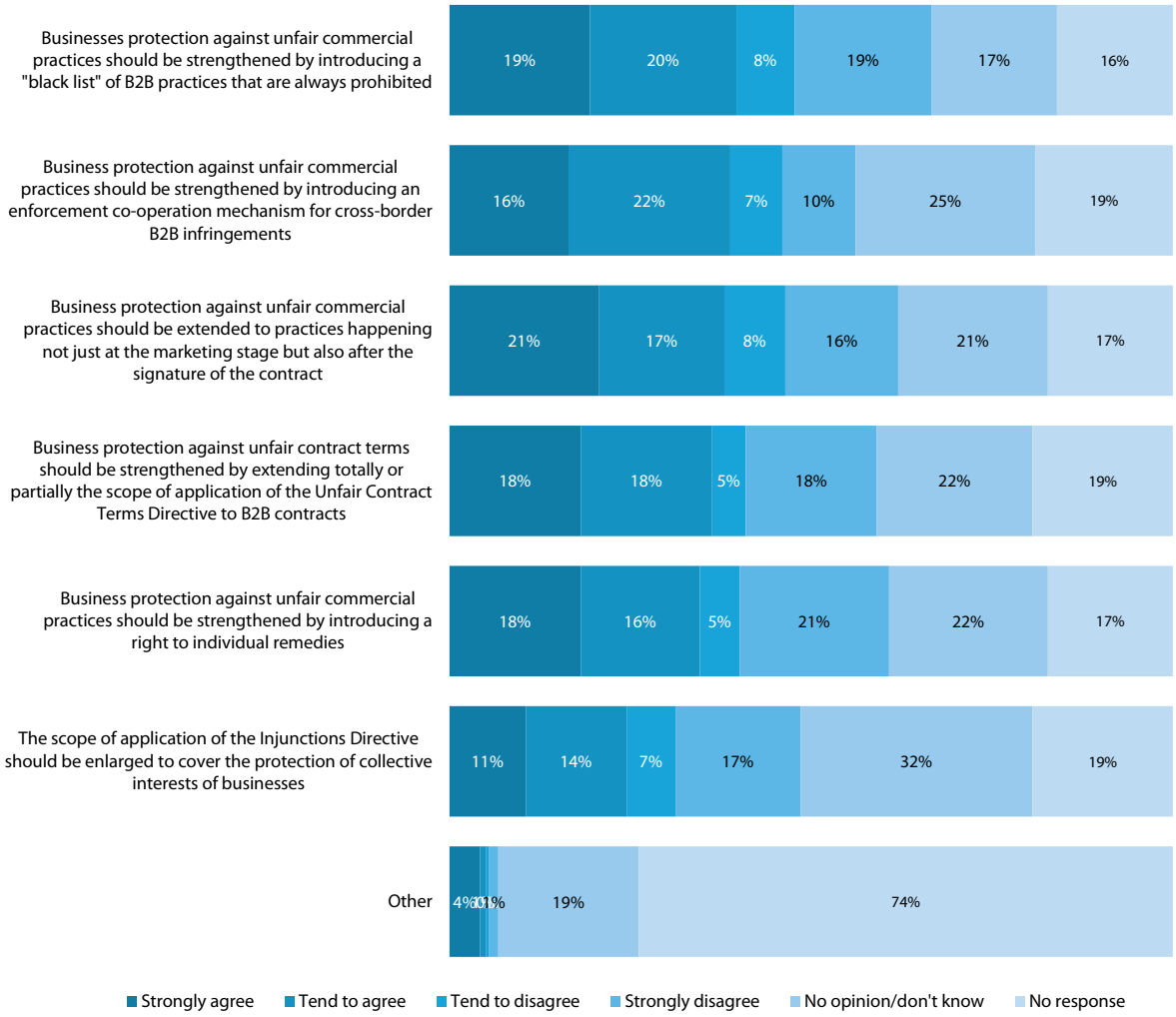
Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: How strongly do you agree or disagree with the following statements about potential areas to improve EU consumer and marketing rules for the benefit of consumers?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

Fewer than half of each respondent type either strongly agree or tend to agree that there should be additional requirements for the protection of vulnerable consumers as regards standard contract terms. 47% of consumer respondents agree, while 39% either did not respond or selected "no opinion/don't know". Only 2% of business associations agree with this statement, with over two thirds (69%) either tending to disagree or strongly disagreeing.

5.17. Views on potential areas to improve the protection of businesses

In the final set of questions, respondents were asked about the extent to which they agree or disagree on various statements regarding potential areas to improve the protection of businesses, especially SMEs and micro-enterprises. The figure below presents the distribution of assessments across all respondent categories.

Figure 38: Views on potential areas to improve the protection of businesses



Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the figure above, respondents' opinions are largely divided with respect to potential areas of improvement for the protection of businesses. 39% of respondents either strongly agree or tend to agree that business protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited, and 38% agree that business protection against unfair commercial practices should be strengthened by introducing an enforcement co-operation mechanism for cross-border B2B infringements. For all statements, at least 30% of respondents did not respond or answered with "no opinion/don't know".

Respondents were then provided an open text field to explain their reply or add other suggestions for areas in which the current EU rules for the protection of businesses should be improved. A total of 90 respondents to the full survey chose to provide comments. A summary of the overall trends by respondent type follows:

- In terms of overall trends, the individual business respondents were almost equally divided as to whether aspects of the consumer law framework should be extended to B2B relations. One company from the UK commented that although some businesses may be vulnerable to unfair

practices by larger and more dominant companies, this behaviour would be better addressed through EU competition law rather than consumer law;[22]

- Business associations were also divided regarding whether or not aspects of the consumer law framework should be extended to B2B relations:
  - Most of the business associations that commented, mostly EU-level associations but also including national associations from Austria, Finland, Germany, Poland, and the UK, considered that such an extension would be inappropriate. Respondents in Austria, Germany and at the EU level also added that they would like to see better enforcement of the existing rules or better cooperation between national enforcement authorities;
  - However, a significant minority of business associations, mostly national business associations, including respondents from Austria, Finland, France, Germany, and Sweden, argued that at least some aspects of consumer law should be extended to B2B relations. A number of these respondents indicated in particular that they would be in favour of improving B2B protection against unfair contract terms;
  - Another recurring theme in the open responses was raised by business associations in the hotel industry, which argued that businesses needed a higher level of protection against unfair practices by price comparison tools and booking intermediaries, as in many industries these tools have become indispensable;
- Public authorities that provided responses were divided on the question of whether additional protections should be extended to B2B relations. While authorities in Belgium and Estonia argued that businesses should be better protected, authorities in the Czech Republic, Latvia and Malta expressed scepticism that such additional protections would be necessary;
- Most consumer associations that provided relevant feedback to this question, for example in the Czech Republic, Portugal, and at the EU level, considered that B2C rules should not be extended to B2B relations.

The table below presents the breakdown of assessments regarding the statement that business protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited by respondent category.

[22] Most individual businesses that responded to this question did not agree to allow their responses to be published.

Table 117: Assessment of whether business protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**31%**	28%	0%	3%	14%	25%
Businesses	**34%**	26%	3%	18%	13%	5%
Public authorities	14%	21%	4%	11%	**36%**	14%
Consumer associations	15%	15%	0%	0%	**45%**	25%
Business associations	13%	14%	13%	**34%**	7%	20%
Other	14%	**24%**	21%	17%	21%	3%
Total %	*19%*	***20%***	*8%*	*19%*	*17%*	*16%*
Total number	*46*	*48*	*19*	*45*	*41*	*38*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, there is a strong division between businesses and business associations in this respect. The majority of business respondents (60%) either strongly agree or tend to agree that business protection against unfair commercial practices should be strengthened by introducing a "black list" of B2B practices that are always prohibited. In contrast, less than one third (27%) of business associations agree with this statement, while 47% either tend to disagree or strongly disagree.

The table below presents the breakdown of assessments regarding the statement that business protection against unfair commercial practices should be strengthened by introducing an enforcement cooperation mechanism for cross-border B2B infringements by respondent category.

Table 118: Assessment of whether business protection against unfair commercial practices should be strengthened by introducing an enforcement cooperation mechanism for cross-border B2B infringements (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**39%**	19%	0%	3%	14%	25%
Businesses	**24%**	**24%**	11%	5%	21%	16%
Public authorities	11%	18%	4%	11%	**43%**	14%
Consumer associations	10%	20%	0%	0%	**45%**	25%
Business associations	7%	**23%**	7%	20%	21%	22%
Other	17%	**28%**	21%	3%	24%	7%
Total %	*16%*	*22%*	*7%*	*10%*	***25%***	*19%*
Total number	*39*	*53*	*17*	*24*	*59*	*45*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, consumers are the only respondent type in which a majority either strongly agree or tend to agree that business protection against unfair commercial practices should be strengthened by introducing an enforcement cooperation mechanism for cross-border B2B infringements. 48% of businesses and 30% of business associations agree with this statement.

The table below presents the breakdown of assessments regarding the statement that business protection against unfair commercial practices should be extended to practices happening not just at the marketing stage but also after the signature of the contract by respondent category.

Table 119: Assessment of whether business protection against unfair commercial practices should be extended to practices happening not just at the marketing stage but also after the signature of the contract (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**36%**	19%	3%	6%	11%	25%
Businesses	**34%**	29%	3%	18%	11%	5%
Public authorities	11%	11%	4%	11%	**50%**	14%
Consumer associations	15%	15%	0%	0%	**45%**	25%
Business associations	14%	14%	10%	**24%**	14%	23%
Other	17%	17%	**28%**	14%	21%	3%
Total %	*21%*	*17%*	*8%*	*16%*	***21%***	*17%*
Total number	*49*	*41*	*20*	*37*	*49*	*41*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

According to the table above, almost two-thirds of business respondents (63%) either strongly agree or tend to agree that business protection against unfair commercial practices should be extended to practices happening not just at the marketing stage but also after the signature of the contract. In contrast, just 28% of business associations agree with this statement, with 34% disagreeing.

The table below presents the breakdown of assessments regarding the statement that business protection against unfair contract terms should be strengthened by extending totally or partially the scope of application of the Unfair Contract Terms Directive to B2B contracts by respondent category.

Table 120: Assessment of whether business protection against unfair contract terms should be strengthened by extending totally or partially the scope of application of the Unfair Contract Terms Directive to B2B contracts (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**31%**	**31%**	0%	0%	11%	28%
Businesses	**29%**	24%	5%	18%	16%	8%
Public authorities	7%	14%	7%	14%	**43%**	14%
Consumer associations	5%	20%	0%	0%	**50%**	25%
Business associations	15%	9%	7%	**31%**	12%	26%
Other	17%	24%	3%	17%	**31%**	7%
Total %	*18%*	*18%*	*5%*	*18%*	***22%***	*19%*
Total number	*43*	*43*	*11*	*43*	*51*	*46*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

The majority of both consumer respondents (62%) and business respondents (53%) either strongly agree or tend to agree that business protection against unfair contract terms should be strengthened by extending totally or partially the scope of application of the Unfair Contract Terms Directive to B2B contracts. Business associations, however, are only 24% in agreement, with 38% disagreeing.

The table below presents the breakdown of assessments regarding the statement that business protection against unfair commercial practices should be strengthened by introducing a right to individual remedies (e.g. compensation and/or invalidity of the contract when the business has been misled into signing a disadvantageous contract) by respondent category.

Table 121: Assessment of whether business protection against unfair commercial practices should be strengthened by introducing a right to individual remedies (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	**42%**	17%	6%	3%	8%	25%
Businesses	32%	13%	5%	**21%**	18%	11%
Public authorities	14%	7%	11%	11%	**43%**	14%
Consumer associations	5%	20%	0%	0%	**50%**	25%
Business associations	6%	16%	5%	**36%**	16%	21%
Other	21%	**28%**	7%	21%	21%	3%
Total %	*18%*	*16%*	*5%*	*21%*	***22%***	*17%*
Total number	*43*	*39*	*13*	*49*	*52*	*41*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

As shown in the table above, the majority of consumer respondents (59%) either strongly agree or tend to agree that business protection against unfair commercial practices should be strengthened by introducing a right to individual remedies. However, less than half of businesses (45%) and business associations (22%) agree.

The table below presents the breakdown of assessments regarding the statement that the scope of application of the Injunctions Directive should be enlarged to cover the protection of collective interests of businesses by respondent category.

Table 122: Assessment of whether the scope of application of the Injunctions Directive should be enlarged to cover the protection of collective interests of businesses (by category of respondent)

Respondent category	Strongly agree	Tend to agree	Tend to disagree	Strongly disagree	No opinion/don't know	No response
Consumers	25%	17%	3%	3%	25%	**28%**
Businesses	18%	13%	11%	13%	**29%**	16%
Public authorities	7%	0%	7%	21%	**50%**	14%
Consumer associations	5%	15%	0%	5%	**50%**	25%
Business associations	6%	14%	3%	26%	**28%**	23%
Other	3%	24%	21%	21%	**28%**	3%
Total %	*11%*	*14%*	*7%*	*17%*	***32%***	*19%*
Total number	*25*	*33*	*16*	*41*	*76*	*46*

Source: Public consultation for the Fitness Check of EU consumer and marketing law. *Question: To what extent do you agree or disagree with each of the following statements about potential areas to improve the protection of businesses, especially SMEs and in particular micro-enterprises?* Note: For each respondent category, the highest percentage is bolded. Percentages may not sum to 100% due to rounding. Base: all respondents to the full survey. N=237.

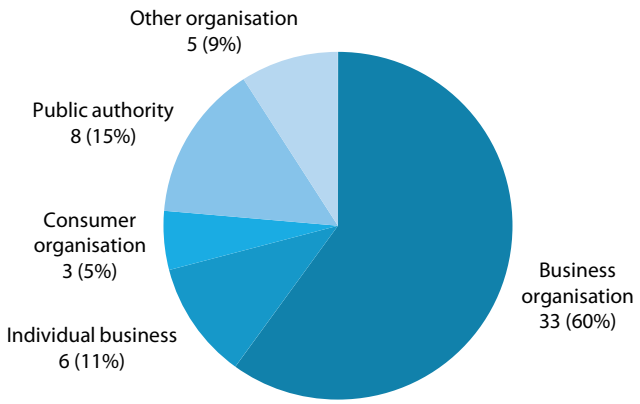
As shown in the table above, less than half of all respondent types agree or tend to agree that the scope of application of the Injunctions Directive should be enlarged to cover the protection of collective interests of businesses. 31% of business respondents agree with this statement, compared to 20% of business associations and only 7% of public authorities.

6. Results of the analysis of open submissions

6.1. Submissions received

Respondents to the public online consultation for the Fitness Check of EU consumer and marketing law had the possibility to submit a position paper with additional comments. In total, 55 position papers were received and reviewed.[23] The following figure shows the breakdown of submissions by type of respondent.

Figure 39: Submissions provided, by stakeholder type



As the figure above indicates, nearly three quarters of the optional submissions received (39 in total) were provided by business stakeholders, comprising individual businesses (6) and, more commonly, business associations (33). Public authorities were the second most common source of submissions (8), followed by "other" organisations (5) and consumer organisations (3). Slightly more than one third of submissions (20, or 36%) were made by EU-level organisations, while 64% came from respondents at the national level.

After all submissions were reviewed in depth, recurring topics were categorised and all documents tagged on this basis to facilitate the qualitative analysis. These topics are presented in the following sections by type of respondent and are grouped according to the following Directives:

- Unfair Commercial Practices Directive 2005/29/EC;
- Misleading and Comparative Advertising Directive 2006/114/EC;
- Price Indication Directive 98/6/EC;
- Unfair Contract Terms Directive 93/13/EEC;

[23] This number includes 3 position papers submitted to DG Justice and Consumers outside the EU Survey tool within the period of the consultation. Two respondents submitted more than one position paper; each position paper is counted individually toward the total of 55. A few respondents also submitted position papers that were the same as or similar to those of other respondents, and these papers were also counted individually toward the total of 55. Additionally, a limited number of respondents submitted copies of their own survey response. These submissions were all reviewed and included in the total of 55, and where these papers provided any comments beyond the original survey response, these were included in the qualitative analysis by topic.

- Injunctions Directive 2009/22/EC;
- Sales and Guarantees Directive 1999/44/EC;
- Consumer Rights Directive 2011/83/EC.

Where respondents provided overarching comments regarding the Fitness Check in general, or comments that were not associated with a particular Directive, these comments have been presented in a separate section on general themes (see next section). Quotes are attributed to respondents by name unless the respondent requested to remain anonymous.

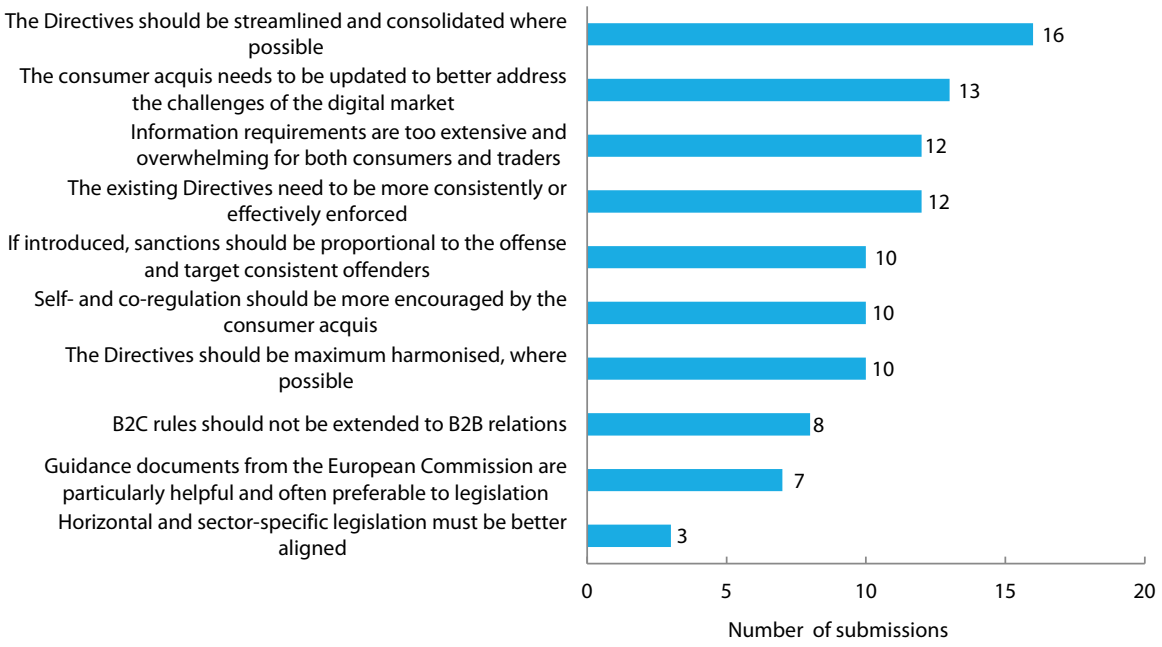
6.2. General themes

Out of the 55 submissions to the public online consultation for the Fitness Check of EU consumer and marketing law, 36 included general comments that were not associated with a particular Directive.

6.2.1. Business and business associations

Overall, 24 business stakeholders (including businesses and business associations) provided general comments in their submissions to the public online consultation. The figure below shows the most common general topics among business stakeholders:

Figure 40: Frequency of general topics addressed by business stakeholders



In general, business stakeholders were strongly in favour of **streamlining, simplifying and consolidating the current consumer acquis**, as long as this was accomplished in a balanced and proportionate way that did not place additional burdens or regulations on EU businesses (16 submissions):

- *"The EU legislative framework in the area of consumer and marketing law was elaborated piecemeal, with no systematic legislative plan. The regulatory fitness check provides a valuable opportunity to simplify and streamline the current legislation so as to eliminate overlaps and duplications, increase consistency, facilitate compliance and make enforcement more effective." (Assonime)*

In addition to streamlining existing legislation, many business stakeholders also considered that the current legislation could be **better or more consistently enforced** without the need to change the substantive content of the Directives (12 submissions):

- *"More important than amending the current rules, it is vital to achieve a coherent interpretation, implementation and enforcement of those rules and a good understanding of how they apply to new market realities and players." (BusinessEurope)*
- *"There are significant differences in the enforcement of the regulations between the different Member States, and this gives rise to unequal competition and may lead to a situation where businesses do not want to sell their goods and services in other countries." (Confederation of Danish Enterprises)*

Furthermore, many business stakeholders advocated in favour of pursuing **full harmonisation where possible** in order to eliminate barriers to cross-border trade (10 submissions):

- *"[We] generally support total harmonization of the EU consumer law acquis. Total harmonization has advantages for both businesses and consumers. For instance, traders' costs of finding out what are the rules in other Member States is reduced and there is less need to adapt products to the different Member States. Consumers trust is increased, and, to the extent that harmonized rules lead to more cross border trade, competition is also increased leading to lower prices and/or more consumer choice." (Confederation of Danish Industry)*
- *"It is clear that the same rules across the EU would make it easier for consumers and traders to operate cross-border. However, we support full (and not minimum) harmonisation that is proportionate and balanced. Harmonisation just for the sake [of] it with rules much more prescriptive, burdensome and uncompetitive for European traders vis-à-vis traders from outside the EU will not improve anything." (EuroCommerce)*

Most business stakeholders also referred to the need for consumer legislation that better takes into account the **new challenges of the digital marketplace** (13 submissions), including general concerns about the collaborative economy and new forms of marketing. For some, the need for flexible, "future-proof" consumer protection was also linked to a call for stronger **self- and co-regulatory initiatives** (10 submissions):

- *"Digitisation has showed that classical regulatory instruments alone are not able to adapt fast enough to the ever-changing circumstances of modern society. Very often regulation does not fit to new products and changing consumer behaviour or the time between a newly arising challenge and the legislative answer takes too long. This unfitting legal environment makes it harder – or even impossible – for consumers and companies to benefit from new technologies. Therefore, classical regulation needs to be concretised and completed by effective self- and co-regulation." (Bitkom)*

Another of the most commonly mentioned general topics among business stakeholders, discussed in 12 submissions, was the need to **simplify information requirements** both in legislation (through consolidating the relevant requirements in a single Directive) and in practice. Business stakeholders expressed the concern that consumers were currently presented with an "information overload", and would benefit from a clearer distinction between essential information presented at the advertising stage and more detailed information at pre-contractual stage:

- *"Contrary to "the more, the better", too extensive information requirements are of little value for average consumers and distract from key elements of*

contracts. More important are easy-to-understand information, that are illustrated in a transparent way." (ETNO/GSMA)

- *"An approach based on the distinction between the advertising stage, where information could be limited to the essentials, and the pre-contractual stage, where more detailed information should be granted to consumers, would entail an important simplification of the burdens on undertakings without lowering the level of consumer protection." (Assonime)*

Business stakeholders were not in principle opposed to **sanctions** at the European level, but argued that these should be proportionate to the offense and targeted toward persistent violators of consumer law (10 submissions):

- *"Legal uncertainty, excusable non-compliance etc. should not lead to huge fines or similar harsh sanctions in first-time cases. That would be disproportionate. Severe, repetitive or clearly deliberate non-compliance, on the other hand, should be met with truly dissuasive sanctions." (Confederation of Danish Industry)*

Many business stakeholders were also **opposed to the idea of extending consumer law to B2B relations** (8 submissions):

- *"B2B relationships are different from B2C. Consumer law has been designed to protect private individuals. Extending the protection to businesses would create a fundamental shift in existing concepts of entrepreneurship, competition and business models and would change the very nature of the B2B transactions. A blanket application of consumer law to all SMEs or micro businesses [...] would be a heavy intervention in the market." (EuroCommerce)*

Several business stakeholders also emphasised the usefulness of receiving **guidance from the European Commission**, and suggested that such guidance be provided at the same time that new Directives are implemented (7 submissions):

- *"The adoption of guidance documents by the Commission, both for the UCP and the Consumers' Rights directives, is a useful tool to increase awareness of undertakings and consumers. Guidance by the Commission can also promote a greater convergence in the interpretation and application of the substantive rules at the national level." (Assonime)*

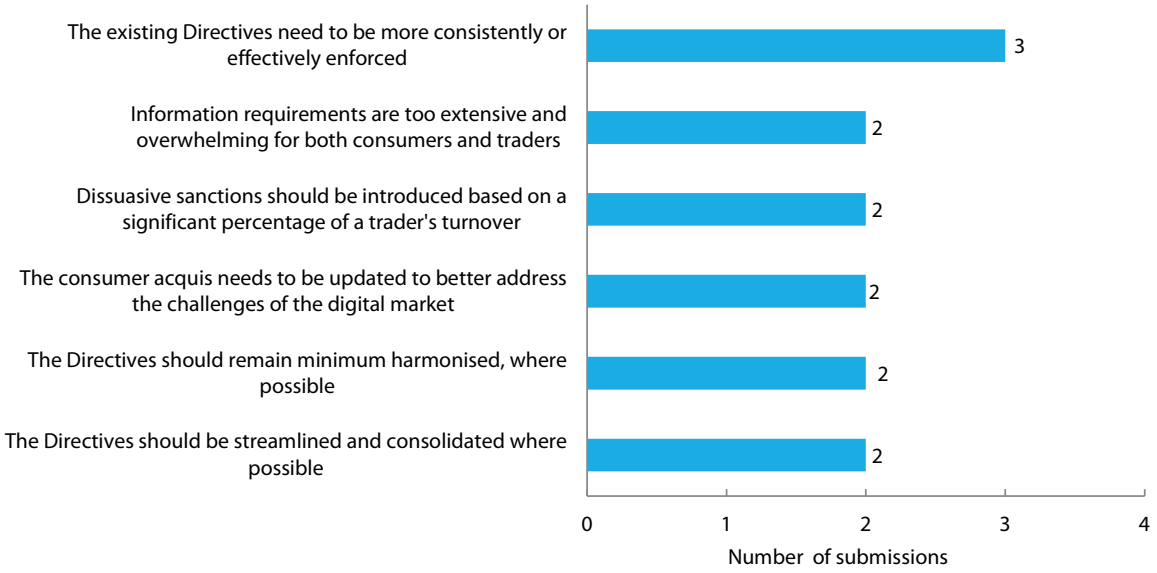
Finally, some business stakeholders representing sector-specific associations argued that the relationship between **horizontal and sector-specific legislation should be further streamlined** (3 submissions):

- *"Clarification and regulatory coherence is key to ensure legal certainty and to avoid regulatory overlaps. This goes beyond horizontal rules and should include sector-specific law such as applied to telecoms. There is a strong need to review all existing sector specific rules: Rules that are no longer needed have to be deleted. Selected sector specific rules that are deemed to be indispensable have to be shifted to the horizontal framework. Self- and co-regulation can accompany horizontal regulation." (ETNO/GSMA)*

6.2.2. Consumer organisations

All three consumer organisations that provided submissions to the public online consultation included general comments regarding the Fitness Check and the overall state of the consumer acquis. The figure below shows the most common topics mentioned by the consumer organisations.

Figure 41: Frequency of general topics addressed by consumer organisations



In general, consumer organisations felt that there was much to be improved in the consumer acquis. The most common comment, on which the three organisations were unanimous, was that the **existing Directives need to be more effectively or consistently enforced**:

- *"These [consumer] rights must be safeguarded by enforcement and redress mechanisms: there are no consumer rights without redress. Consumer law is not effective if consumers do not have remedies available and if there is not an effective forum for handling complaints and dealing with a lack of compliance. Enforcement and sanctions must therefore be at the heart of any review of EU consumer law." (BEUC)*

Two of the three consumer organisations agreed with the business stakeholders that there was room to **streamline and consolidate consumer legislation** where possible, as long as this did not lead to an overall lower level of protection for consumers. Both mentioned the pre-contractual information requirements in particular as an area that could be further consolidated:

- *"[We are] open to discuss the potential of regrouping and streamlining marketing/pre-contractual information requirements currently included in the Directives under REFIT and the Consumer Rights Directive, as long as the consumer protective standard is not lowered." (BEUC)*

As with the business stakeholders, two consumer organisations thought that in addition to the consolidation exercise, it would be important to **consider simplifying pre-contractual information requirements** in order to avoid overloading consumers with information:

- "*Consumers find themselves confronted with too much information in many areas of their lives. In everyday life, no consumer reads general business conditions or privacy statements, even though their content is binding on him. […] The Commission should therefore examine in concrete and practical terms the extent to which information is suitable to protect the interests of consumers in relation to suppliers.*" *(Federation of German Consumer Organisations (VZBV))*

- *"During the Fitness Check of EU consumer law, we recommend to look into the form of the information, its simplification and to explore the reality of consumer understanding and behaviour." (BEUC)*

Furthermore, two of the three consumer organisations argued that the Directives should remain at a level of **minimum harmonisation** where possible, in order to allow for national governments to introduce a higher level of protection:

- *"For consumers in the EU, consumer law is not better the more it is harmonised Europe-wide. As in the past, consumption is largely national. [...] Instead of definitively regulating the requirements of consumer law in all areas at EU level (full harmonisation), the European Commission should lay down binding fundamental requirements concerning consumer protection EU-wide, but leave scope for the national legislator to achieve a higher level of consumer protection (minimum harmonisation)." (VZBV)*
- *"Full harmonisation does not necessarily boost consumer confidence in the internal market. It may help tackling legal fragmentation but it does not favour consumers if it does not bring a truly high level of consumer protection." (BEUC)*

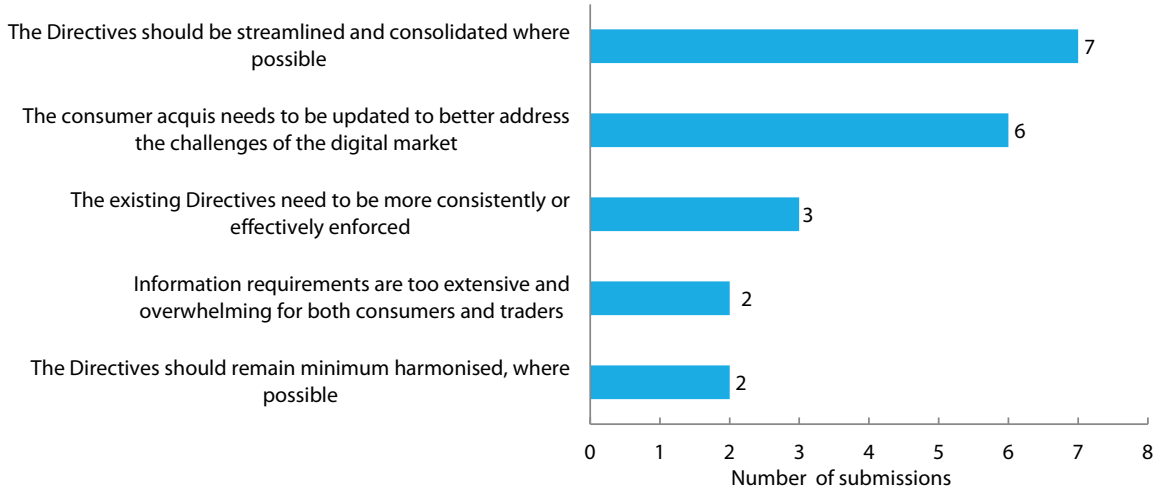
Finally, two consumer organisations expressed the importance of updating the consumer acquis in order to better address the **realities of the new digital marketplace**:

- *"Last but not least, consumer protection law must be adjusted to the realities of digitisation which has changed the everyday life of consumers radically since the adoption of the consumer protection directives." (VZBV)*

6.2.3. Public authorities and other organisations

Six public authorities and three organisations that listed their institutional type as "other" provided general comments in their submissions to the public online consultation. The figure below shows the most common topics expressed in these nine submissions.

Figure 42: Frequency of general topics addressed by public authorities and other organisations



All six public authorities were unanimous that the Directives should be **streamlined and consolidated**, supported by one of the other organisations, but emphasised that maintaining a high level of consumer protection was essential:

- *"Overlaps and gaps should be identified and remedied. However, it is important to ensure that measures to simplify and improve consumer protection legislation do not lead to a worsening of consumer protection on the whole." (a national ministry)*
- *"In principle, [we] welcome the simplification and streamlining of existing law where it makes it easier for traders to comply with the law, therefore benefiting consumers. [We] would, however, be concerned if streamlining the Unfair Commercial Practices Directive (UCPD), Consumer Rights Directive (CRD) and the Price Indication Directive (PID) resulted in the unintended consequences of reducing consumer rights and/or increasing burdens on businesses. [We] would want to ensure that any proposed changes provided net benefits for businesses and consumers" (UK Department of Business, Energy & Industrial Strategy)*

Four public authorities and one other organisation expressed the same concerns as the business stakeholders and consumer organisations regarding the need to adapt consumer legislation for the **digital market**:

- *"Horizontal marketing and consumer law should aim to offer clarity, be adaptable to new technology and innovation and support business growth. As digital technology continues to evolve and change the ways in which consumers and traders interact and access goods and services, an evidence-based understanding of its nature, impact and how to ensure legislation is future-proofed is vital." (UK Department of Business, Energy & Industrial Strategy)*

One public authority and one other organisation expressed a preference for maintaining a level of **minimum harmonisation**, in order to allow Member States to introduce higher levels of protection:

- *"The model of minimum harmonisation at a high level of protection has worked well in the field of consumer rights; the existing rules have created a stable, fair and open market, in which both traders and consumers have been able to operate with confidence. Any change in this approach (e.g. maximum harmonisation) should be considered with caution and only if objective evidence clearly demonstrates how minimum standards do not achieve the ultimate aim of comprehensive protection of consumer rights."*

Additionally, two public authorities and one other organisation suggested that **information requirements could be simplified** to make them more helpful for consumers:

- *"As to the impact of EU consumer and marketing law on the amount and relevance of information available to consumers, the courts commented that the quantity of the information to be made available to consumers was so great that consumers could hardly digest it all. Efforts to simplify the information that must be supplied would be welcome." (Bavarian State Ministry of Justice)*

Finally, one public authority and two other organisations noted that the existing Directives should be **better and more consistently enforced** across the EU:

- *"Legal enforcement is the key to more effective consumer protection. This must be viewed through the prism of possibilities for compulsory enforcement. Consumer protection will have the necessary effectiveness only once these can be ensured in a simple, uncomplicated and cost-effective manner."*

6.3. Unfair Commercial Practices Directive and Misleading and Comparative Advertising Directive

Out of the 55 submissions to the public online consultation, 34 provided specific comments on the Unfair Commercial Practices Directive (UCPD) and 19 provided comments on the Misleading and Comparative Advertising Directive (MCAD).

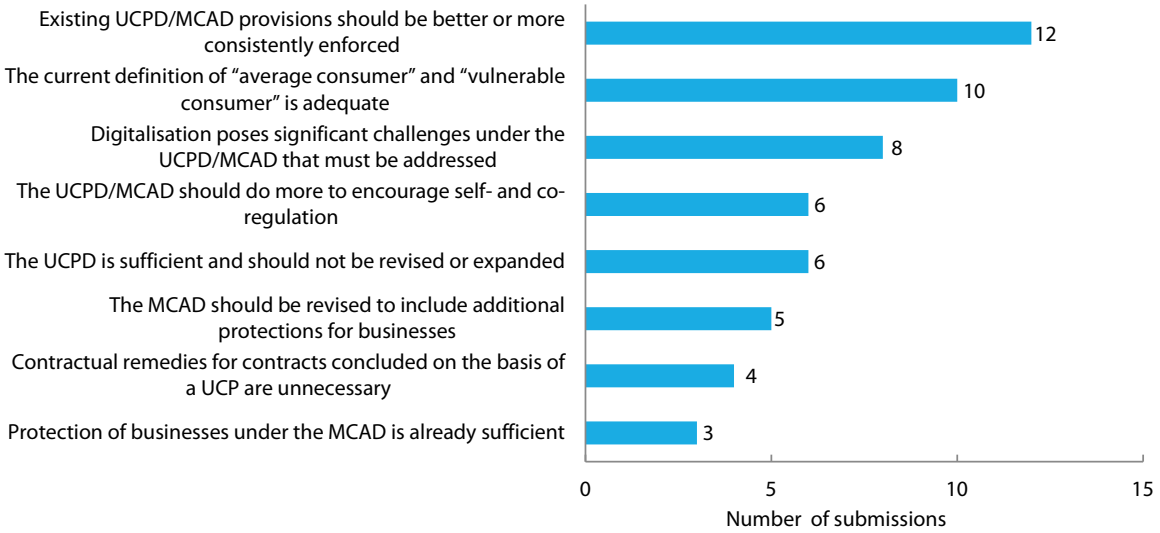
As some Member States have chosen to transpose the UCPD and MCAD within the same legislation, business stakeholders and public authorities often referred to both in their submissions when discussing misleading commercial practices. The discussion of consultation results regarding these Directives has therefore been combined in the following sub-sections.

From the submissions that provided comments on the UCPD or MCAD, 11 distinct topics related to unfair commercial practices and marketing could be identified.

6.3.1. Business and business associations

In total, 23 businesses or business organisations provided comments on the UCPD and 15 commented on the MCAD in their submissions. The most frequent topics addressed by business stakeholders are shown in the figure below.

Figure 43: Frequency of unfair commercial practices and marketing topics addressed by business stakeholders



Overall, most business stakeholders were in favour of maintaining the existing provisions under the UCPD and MCAD, with some exceptions in the areas of digitalisation and self-regulation.

The most common comment from business stakeholders, mentioned in 12 submissions, was that the existing provisions of the UCPD and MCAD should be **better or more consistently enforced**:

- *"Rather than amending the current Directives, we would support better enforcement and more coherent interpretation of legislation across the EU. The existing rules should be clarified and simplified instead of creating new ones. Interpretative guidance could be further developed by the Commission together with the relevant stakeholders." (Direct Selling Europe)*

- *"It is crucial for ensuring fair competition and a well-functioning Single Market, that harmonized EU-rules are not only implemented/interpreted the same way, but also enforced the same way." (Confederation of Danish Industry)*

Many of the other comments among business stakeholders related to preserving the status quo. Six submissions made general comments that they regarded current requirements under the UCPD to be sufficient, and three explicitly said the same of the MCAD. Other submissions mentioned specific aspects of the UCPD or MCAD that they thought should be preserved, for example, the **current definition of "average consumer" and "vulnerable consumer"** (10 submissions):

- *"ECJ case-law has established the model for the average, informed, attentive and rational consumer which is part of* effet utile*. […] It is therefore not necessary to revise the definition in our opinion. Also, the average consumer should remain the benchmark. Consumers who […] are particularly in need of protection from dishonest business practices already enjoy special protection in certain circumstances under current legislation. In order not to undermine the model of the average consumer, the group of consumers needing protection should not be extended." (German Direct Selling Association)*

- *"We are against redefining the notion of vulnerable consumers to make it a default notion of all consumers. We agree that special attention must be given to particular groups of people such as young or old, sick or disabled, but we contest the tendency to view all consumers are potentially vulnerable. […] We do not agree with this approach which generally suggests that most consumers are vulnerable and not average. In particular we contest the finding that women or people who do not use internet are vulnerable." (EuroCommerce)*

Additionally, four submissions explicitly commented that **individual or contractual remedies** linked to unfair commercial practices would be unnecessary, as consumers already enjoyed sufficient protection:

- *"We disagree with the proposal to introduce a right to individual remedies when the consumer has been misled into signing a disadvantageous contract (compensation, automatic invalidity of the contract) mainly because there is no solution that would be appropriate in all cases. The current legislative framework is sufficient." (Assonime)*

Among the business stakeholders that called for revisions or additional guidance for the UCPD or MCAD, most referred to the **challenges of the digital market** (8 submissions), in particular the need to have clearer rules for price comparison tools and online platforms related to the collaborative economy:

- *"We share the concerns of some consumer associations that [the European Commission's guidance on the collaborative economy] will not be enough to generate consumer confidence. Indeed, the new guidelines state that the responsibility of online intermediaries should be assessed on a case by case basis. This provision will be neither clear nor simple for consumers as it will be difficult for them to evaluate in each case whether the platform they are dealing with has responsibilities towards them." (AIM European Brands Association)*

- *"The sharing economy or collaborative economy is gaining ground in many different areas, and [we] welcome new business models. However, it is important to ensure that the new and old business models are competing on equal grounds. In the same way, it is important in the collaborative economy to make sure that whether a party is a consumer or trader, and what protection participants in a collaborative economy can expect, are clearly defined." (Confederation of Danish Enterprise)*

Six submissions also suggested that the UCPD/MCAD should **do more to encourage self- and co-regulatory initiatives**:

- *"As effective self-regulation in the field of advertising plays an important role in covering key provisions of the UCPD and MCAD […] it would be of benefit to consumers, businesses and regulators if the Directives covered by the Fitness Check could include a more coherent reference to the encouragement and role of effective self-regulatory mechanisms." (a European business association)*

Finally, five submissions called explicitly for **additional protection of businesses in B2B relations** under the MCAD, including introduction of a blacklist, mandatory private enforcement rights, or clarification of certain practices (e.g. parasitic advertising) as misleading under the MCAD:

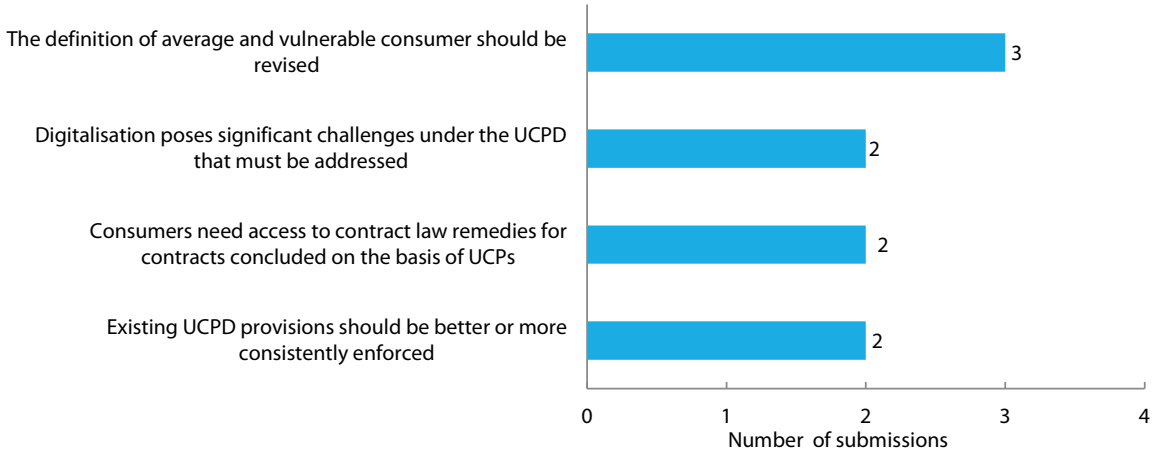
- *"[We] call for the clarification of the conditions under which a retailer can lawfully use marketing practices involving a price comparison on the basis of the CJEU-case law. […] To achieve this [we] suggest replacing Article 4 MCAD with a general prohibition of misleading and comparative marketing coupled with a UCPD-style black-list of marketing practices which are, in all cases, considered misleading. " (EuroCommerce)*
- *"Companies are often the best enforcers against misleading practices targeting consumers of their products [i.e. parasitic advertising]. Therefore, [we] would suggest amending Article 5 of the MCAD and Article 11 of the UCPD to make it obligatory for Member States to provide the possibility of private enforcement [by companies], rather than it being optional." (AIM)* [24]

6.3.2. Consumer organisations

All three consumer organisations that provided detailed submissions for the public online consultation included comments on the UCPD, and one briefly discussed the MCAD. The most frequent topics discussed by consumer organisations are shown in the figure below.

[24] Note that this quote relates to private enforcement by businesses against other businesses in the context of B2C relations. The submission quoted here links the possibility for private enforcement by businesses to the issue of "parasitic advertising", where a business deliberately designs the packaging or marketing material for their product to resemble a well-known brand of another business.

Figure 44: Frequency of unfair commercial practices and marketing topics addressed by consumer organisations



In general, the consumer organisations commented that they perceived many improvements to be made to the existing UCPD framework.

All three organisations commented that **the concepts of the "average consumer" and "vulnerable consumer" needed to be revised** in order to take into account the reality of consumer psychology:

- *"The UCPD takes as a benchmark the average consumer, who is deemed to be reasonably well-informed and reasonably observant. There is empirical evidence that, in many contexts, these two characteristics are not true of human behaviour." (Which? (UK consumer organisation))*
- "*The definition of the 'vulnerable consumer' is too narrow.. [...]In the context of the most recent refugee migration, exploitation of commercial inexperience and insufficient language skills is to be observed, and in this case the particular vulnerability of this group of consumers is not covered by the provisions of Article 5(3) of the Directive." (VZBV)*
- *"In fact, it is also often a fiction that educated, well-informed consumers with commercial experience concern themselves at length with the details of a consumption decision. Consumers in the 'rush hour' of life, who alongside the demands of working life, also have to cope with bringing up children or looking after older family members, simply do not have time for this. The law on fair trading should therefore assess the need for protection of consumers in relation to their situation." (VZBV)*

Two of the three consumer organisations also noted the **digital environment poses specific challenges** that are inadequately addressed by UCPD, including misleading or opaque price comparison tools, the definitions of "consumer" and "trader" in the collaborative economy, and liability issues related to the use of online intermediaries and platforms:

- *"Problems related to online booking, comparison tools, or the collaborative economy can often not be addressed by the current standard of protection laid down by the Directive; this also due to its full harmonisation effect, which prevents Member States from combatting certain unfair practices. [...] A renewal of [the European Commission's guidance on the UCPD] is not enough." (BEUC)*
- *"Loopholes in protection arising from the digitisation of consumers' everyday lives should be closed through further development of consumer law. Consumers should be able to count on being informed transparently and reliably by search engines, platform operators and intermediaries and to feel confident that intermediaries will ensure protection against risks*

given that they derive economic benefit from the conclusion of the contract." (VZBV)

Two consumer organisations also emphasised the **need for contractual remedies** for contracts concluded on the basis of an unfair commercial practice:

- *"It is a significant flaw, and to the detriment of the consumer, that the Directive does not oblige Member States to implement an adequate framework for contract law remedies for consumers, such as rights to withhold performance, obtain redress, or terminate a contract where the contract has been concluded as a consequence of an unfair commercial practice." (BEUC)*

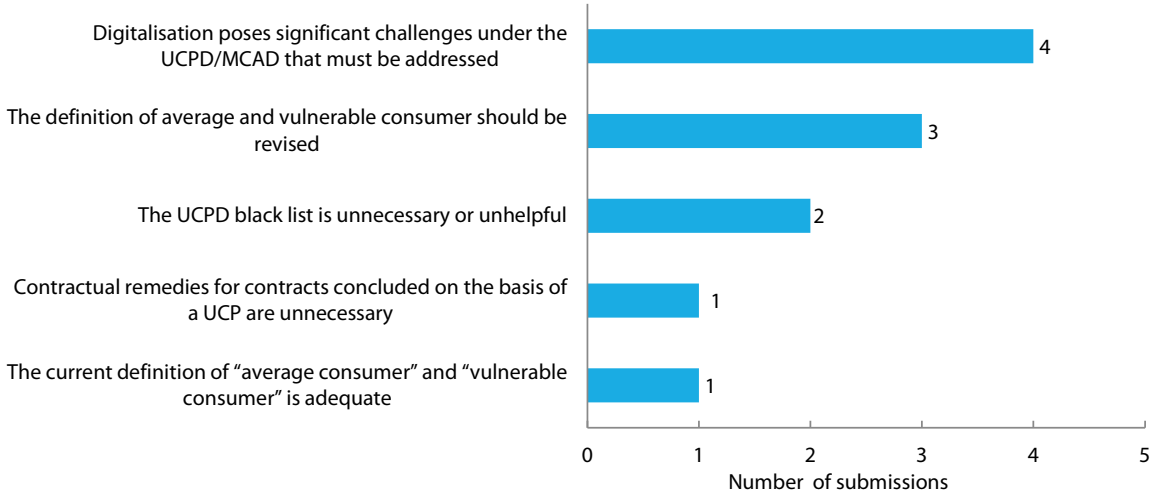
Finally, two of the consumer organisations commented generally that the existing provisions of the UCPD needed to be **better or more consistently enforced**:

- *"Infringements of the law on fair trading must be subject to penalties. So far, consumers themselves can derive few rights from the law on fair trading or take action against infringements." (VZBV)*
- *"As with other directives under the REFIT examination, there is an obvious problem of enforcement of the UCPD, but here to a particular high degree, there is an urgent need to strengthen the role of national authorities, consumer associations, and the European Commission, using an integrated approach that takes into account public and private enforcement tools." (BEUC)*

6.3.3. Public authorities and other organisations

Seven public authorities and one other organisation (the Law Society of England and Wales) provided specific comments on the UCPD in their submissions. Three public authorities also briefly discussed the MCAD. The most common topics addressed by public authorities and other organisations are shown in the figure below.

Figure 45: Frequency of unfair commercial practices and marketing topics addressed by public authorities and other organisations



Public authorities presented a more mixed perspective than either business stakeholders or consumer organisations. Most thought that consumer and business protection under the UCPD and MCAD could be improved, although some expressed satisfaction with the status quo.

The most common topic raised by public authorities (present in four submission) was the need to adapt the UCPD/MCAD to address the **challenges of digitalisation**,

notably with respect to the definitions of "consumer" and "trader" in the collaborative economy and with the problem of hidden or individualised advertising in social media:

- *"It is essential that the UCPD is evaluated in terms of the technological developments that have occurred since its creation. Social media such as Facebook, Instagram and blogs enable users to create profiles and communicate with each other. It is uncertain how the assessment of the term in article 7 (3) […] should be interpreted in relation to the new marketing opportunities in the social media." (Ministry of Business and Growth Denmark)*
- *"[We are] aware that clarity over the definition of consumer and trader has been raised in a range of reports [and] would welcome further work to understand the issues related to this, which are not unique to the online consumer landscape, and to consider the impact of different options for clarifying the definition of consumer and trader and their suitability for emerging technologies and business models." (UK Department for Business, Energy & Industrial Strategy)*

Two of the public authorities and one other organisation (another public institution) saw the need to **revise the definitions of "average consumer" and "vulnerable consumer"**:

- *"[We] would like to see a definition of vulnerability which reflects the transient nature of vulnerability. [...] Stress, family tragedy, depression, or simple lack of knowledge on a particular issue are all factors that can lead a consumer to become vulnerable, even if just for a short period. [Additionally,] the current definition of average consumer needs to be redefined to reflect that consumers do not in many cases have full information, especially relating to products which are complex and require professional assistance." (Chartered Trading Standards Institute (UK))*

Additionally, two public authorities commented that the UCPD blacklist was **unnecessary or even unhelpful**, as the maximum harmonisation nature of the list prevented their governments from adding additional practices:

- "*The use of black lists has hardly any relevance in practice, as they are formulated relatively narrowly and if one of the qualifying elements does not apply to a given case, recourse is made to the general clauses in practice. [...] Particularly fair trading laws are constantly changing legal constructs subject to current trends – rigidly defining and harmonising selected forms of abuse inevitably leads to a drop in consumer protection levels and to a disproportionate restriction of national legislation.*" *(Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection)*

Finally, one public authority commented that they were satisfied with the existing framework regarding the concepts of "average" and "vulnerable" consumers, and rejected the need to introduce contractual remedies for consumers given the existing tools available under their national consumer law.

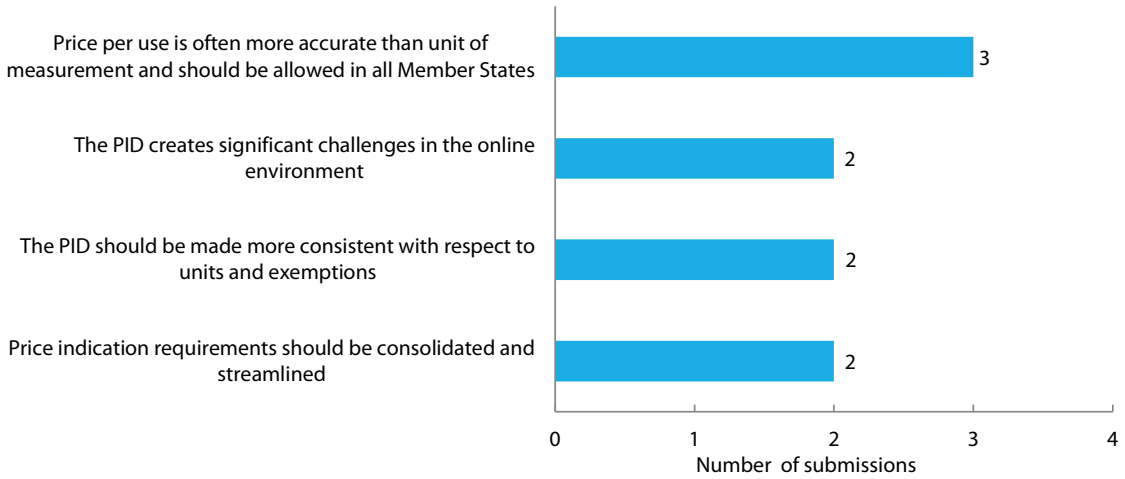
6.4. Price Indication Directive

Out of the 55 submissions to the public online consultation, 16 provided comments on the Price Indication Directive (PID). Seven distinct topics across the three stakeholder groups were identified from these submissions.

6.4.1. Business and business associations

In total, nine businesses or business organisations provided comments on the PID. The most frequent price indication topics addressed by business stakeholders are shown in the figure below.

Figure 46: Frequency of price indication topics addressed by business stakeholders



Business stakeholders generally had less to say on the PID than on the other Directives under consideration (nine comments in total compared to 20-50 on the other Directives). Nonetheless, almost all of the business stakeholders that commented on the PID thought that revisions were necessary to modernise the Directive and standardise its application across the EU.

The most common topic addressed by business stakeholders, mentioned in three submissions, was that the PID should be revised to permit indications of **price per use in all Member States**, e.g. the number of washloads for a detergent:

- *"This [price per wash] measure is more accurate and enables consumers to better compare and make more informed choices. A unit of measurement other than the price-per-wash load may be misleading in relation to the choice of laundry products (e.g. normal, concentrated, environmentally friendly). […] An assessment is necessary whether this option should not be extended to all Member States in different sectors." (AIM)*

Two submissions by business stakeholders argued that the PID should in general be made **more consistent across the EU** with respect to derogations and units:

- *"As with other minimum harmonisation Directives, [we] think that the numerous derogations, which allow member states to adopt different national rules have made it confusing and difficult to apply in practice, especially for retailers that sell online cross-border. In particular, Article 10 (minimum harmonisation) and Article 6 (exemptions for non-food products) created obstacles in cross-border trade. The differences in how the Directive has been transposed leads to confusion amongst retailers, which have to operate by different rules in different member states." (EuroCommerce)*

Two submissions additionally argued that the different price indication requirements indicated in the PID, UCPD, CRD, and sector-specific legislation were confusing for traders and should be **streamlined and consolidated**:

- *"Currently price indication rules are laid down by the Directive 98/6/EC but also by the several sector-specific directives and regulations. […]The primary approach should be that the consumer gets precise information*

before the buying decision. Simple and coherent regulation would help to achieve this goal. Therefore, the Commission should emphasize a proper evaluation of administrative burden, regulatory overlaps as well as inconsistencies of the current price indication related regulatory instruments. Modernization of all price indication related regulation should be one main objective of this Fitness Check." (Federation of Finnish Enterprises)

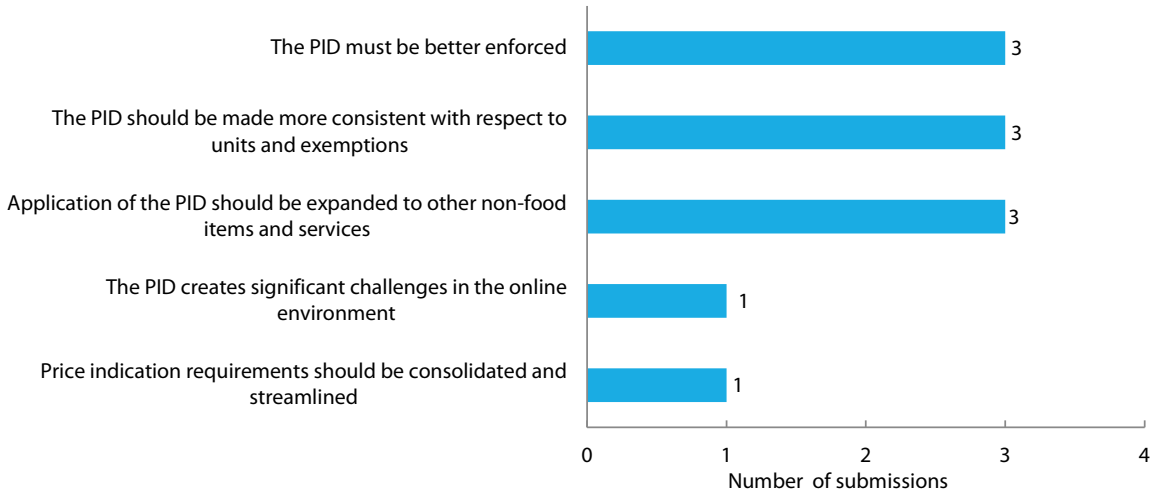
Finally, two submissions commented on the difficulties that arose in trying to apply the PID **online or with respect to digital services**:

- *"In this context, it has to be considered that digital services are often bundled/integrated in one offering, which makes the displaying of a common 'unit' very challenging and confusing for consumers." (ETNO/GSMA)*

6.4.2. Consumer organisations

All three consumer organisations that submitted position papers to the public online consultation included comments on the PID. The most frequent topics discussed by consumer organisations are shown in the figure below.

Figure 47: Frequency of price indication topics addressed by consumer organisations



Consumer organisations were generally very positive about the importance of the unit price for consumers. However, all three also presented suggestions for how the PID could be expanded to improve consumer information.

One of the topics on which the three consumer organisations were unanimous was the need for the **existing provisions of the PID to be better enforced**. In particular, they mentioned concerns regarding the legibility or ambiguity of the unit price display and the fact that many retailers did not show the unit price for promotional items:

- *"Price indications which are too small are also problematic. Legal uncertainty exists in this respect concerning the interpretation of the concepts 'easily identifiable' and 'clearly legible' for basic price information in Article 4. In [our country], even very small font sizes of 2 mm are considered to be lawful, even though such price indication in the lower and upper labelling rails in supermarkets are not clearly legible for many consumers." (VZBV)*
- *"Our super-complaint found that unit prices were not being displayed for products that were on promotion (for example, '50% off' or 'buy-one-get-*

one-free' special offers). The PID must make clear that the obligation to display unit pricing does not fall away when goods are offered at promotional prices and should establish clear rules for how those unit prices should be calculated." (Which?)

The three consumer organisations were also unanimous in the desire to see the PID be made **more consistent with respect to accepted units and exemptions**:

- *"The Commission should assess how Member States have made use of the regulatory options and derogations provided under the Directive and whether this was justified. For example, in some Member States, a range of units can be used which can cause difficulty with comparability." (BEUC)*

All three consumer organisations also agreed on the need to **expand the PID to other non-food items**, including services:

- *"Another focus should be placed on the potential for improvement, for example by extending the scope to services. In areas where it is particularly difficult for consumers to compare different offers, such as mobile telecommunication or energy, compulsory unit pricing for certain services should be considered." (BEUC)*

One of the consumer organisations added that the PID **faced new challenges in the online environment**, particularly regarding the use of price comparison tools and online booking portals:

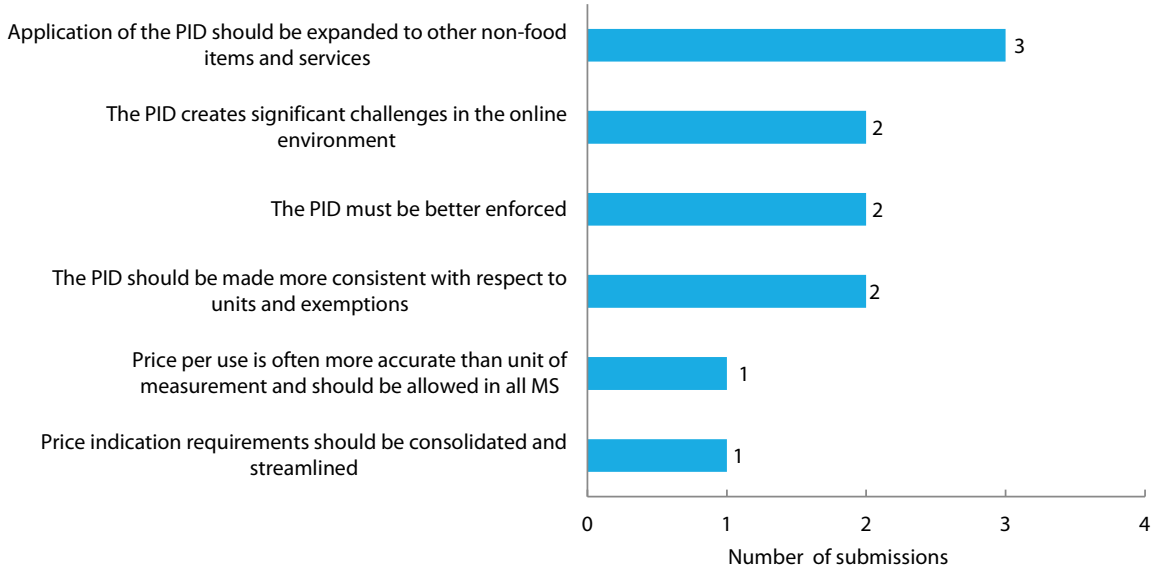
- "*New problems are currently arising in the field of price comparison portals: These are largely not covered by the Price Indication Regulation because they do not themselves act as sellers, but only as intermediaries. At the same time there is in practice considerable potential for misleading if, for instance, extra shipping costs or foreseeable fees are not considered in the price comparison or if supplements for certain methods of payment, such as credit cards or cash on delivery, are not made clear." (VZBV)*

Finally, one consumer organisation also suggested that the PID be **consolidated with other information requirements** in the consumer acquis, for example, by being integrated into the UCPD or CRD.

6.4.3. Public authorities

Four public authorities (the Law Society of England and Wales) provided comments on the PID in their submission to the public online consultation. The most common topics addressed by public authorities are shown in the figure below.

Figure 48: Frequency of price indication topics addressed by public authorities and other organisations



Public authorities generally thought that the PID served an important purpose, but could be improved by expanding the scope and improving the consistency of its application between Member States.

The most common comment, noted by three of the four public authorities, was that the application of the PID should be **expanded to other non-food items and/or services**:

- *"We are of the opinion that the scope of application of the obligation to indicate the unit price should be very wide, also in the area of non-food products. Of course this also applies to online sales." (Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection)*

Two of the public authorities also noted **deficiencies in the current level of enforcement**, including the same observations as the consumer organisations regarding the legibility of the unit price and missing information for sales items:

- *"A big problem is (primarily in the first years of the introduction of the unit price in shops) legibility: The unit prices are often printed on the price labels in much too small print and are difficult or impossible to read for many consumers." (Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection)*
- *"Another serious problem in [our country] relating to indication of the price is that the price offered is not binding on the seller. It would therefore be desirable to enact legislation to make prices indicated in consumer transactions binding on the seller, at least for an appropriate period of time." (Austrian Federal Chamber of Labour)*

Two public authorities also suggested that the PID be implemented **more consistently across the EU** with respect to units and derogations:

- "*In [our] opinion, one problem (among others) is that the exemption for small businesses is far too broad [...] since a relatively broad selection can be made available in a relatively small sales area (and not displaying unit prices makes it harder for consumers to compare products), it would be desirable to limit the exemption." (Austrian Federal Chamber of Labour)*

Two authorities further commented on the **need to update the PID for the digital environment**:

- *"There is a need to update the existing directive, which was adopted in 1998, when E-Commerce was practically non-existing. Therefore the directive has not taken a position on whether it applies in both physical stores and online. The rules should also be evaluated in conjunction with the rules in the UCPD and Directive 2006/123/EC on services in the internal market. For example pricing of services is highly relevant, especially when booking travel services on the internet." (Ministry of Business and Growth Denmark)*

Finally, one public authority commented on the need to **permit price per use indications** (e.g. price per washload for detergents) in all Member States, and another commented on the need to **consolidate price indication requirements** in the consumer acquis:

- *"Many consumer protection rules are buried under the various EU regulations. For example, it is surprising that price indication provisions are included in various different EU regulations [...] This fragmentation makes it difficult for both consumers and enterprises (without legal advice) to understand the rules." (a national ministry)*

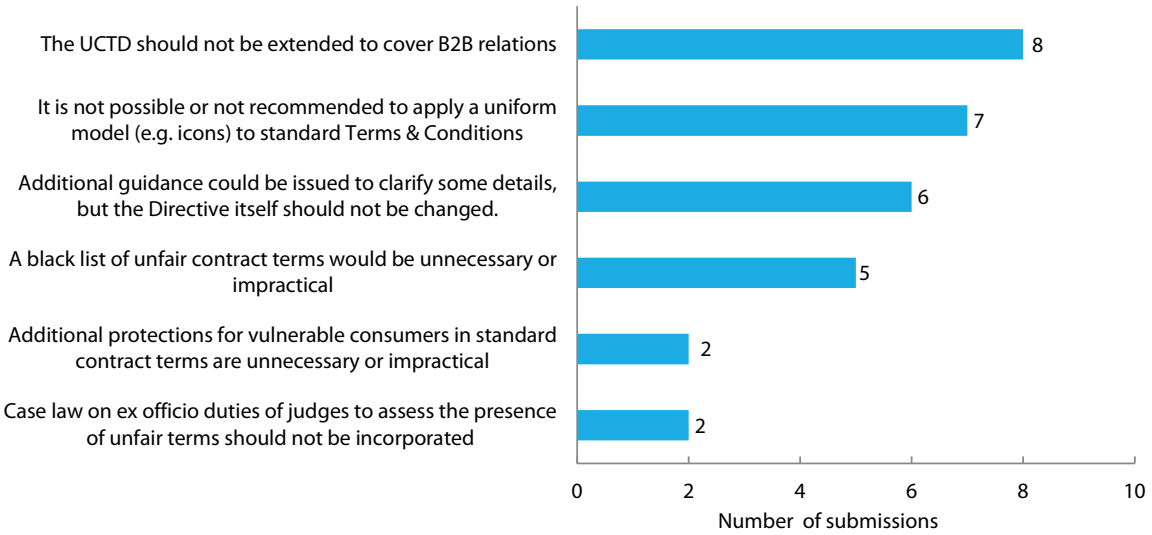
6.5. Unfair Contract Terms Directive

Out of the 55 submissions to the public online consultation, 24 provided specific comments on the Unfair Contract Terms Directive (UCTD) as well as other aspects of contract conclusion and performance. From these 24 submissions, 12 distinct topics across the stakeholder groups were identified.

6.5.1. Business and business associations

In total, 14 businesses or business organisations provided comments on the UCTD. The most frequent topics addressed by business stakeholders are shown in the figure below.

Figure 49: Frequency of contract topics addressed by business stakeholders



Business stakeholders were generally in favour of maintaining the status quo. By far, the most common comment provided by business stakeholders (mentioned in 8 submissions) was that the **UCTD should not be extended to cover B2B relations**. Stakeholders often invoked the principle of the "freedom of contract" between businesses:

- *"Freedom to negotiate contract terms is a key principle in B2B transactions. Buyers and sellers are free to contract on the terms they choose to do business on, and businesses are expected to have the necessary level of professional diligence. Unfair contract terms should not be confused with tough negotiations or bargaining power, which are core to market economy." (EuroCommerce)*
- *"[We believe] that B2B relationships are different from B2C relationships and the scope of consumer acquis should NOT be extended to B2B relations. We support the freedom of contract between businesses and the interference of the regulator here might mean a potential detrimental impact on consumer welfare through higher prices and/or lower choice." (Seldia)*

Many business stakeholders expressed **satisfaction with the current state** of the Directive (6 submissions). Where clarifications were needed, it was suggested that these would be best issued in the form of guidance.

- *"Consumers should be protected against unfair contract terms. Current rules have proved to be effective and disputes over possibly unfair contract terms are regularly raised in court cases and, consequently, market players have to regularly adjust their contracts." (ETNO/GSMA)*

One area in which business stakeholders indicated openness toward further guidance related to the drafting of standard terms and conditions. Although seven business contributions emphasised that it was **not possible or not recommended to require a uniform model for terms and conditions** (such as a simplified, icon-based model), some suggested that guidance in this area may be helpful for SMEs:

- *"We support simplification but we are against imposing mandatory uniform standard terms and conditions on all businesses. We think that it could be helpful if the Commission drafted standard terms. This could be particularly helpful for the SMEs that do not always have resources to seek legal help in drafting such standard terms and conditions. However, any such terms should be voluntary and it should be up to the traders to implement them or not." (EuroCommerce)*
- *"[We support] the Commission's intention to raise awareness of consumers about key standard Terms and Conditions. Various nudging techniques could be used but a uniform model using icons might not be the best solution as 'key standard Terms and Conditions' vary from sector to sector." (AIM)*

While business stakeholders thought that a black list of unfair terms had the potential to provide legal certainty, most thought that **a black list would be unnecessary or unworkable in practice** (5 submissions):

- *"A black list may improve legal certainty with regard to some terms but could not list all possible cases and would quickly become outdated due to market dynamics. Accordingly, a future-proof guidance should be provided by court decisions." (ETNO/GMSA)*
- *"[We are] not in favour of including a black list in Directive 93/13/EEC on unfair terms in consumer contracts. Directive 93/13/EEC already offers sufficient protection from unfair conditions in the General Terms and Conditions of Consumer Contracts. It is therefore not acceptable to introduce a black list." (German Direct Selling Association)*

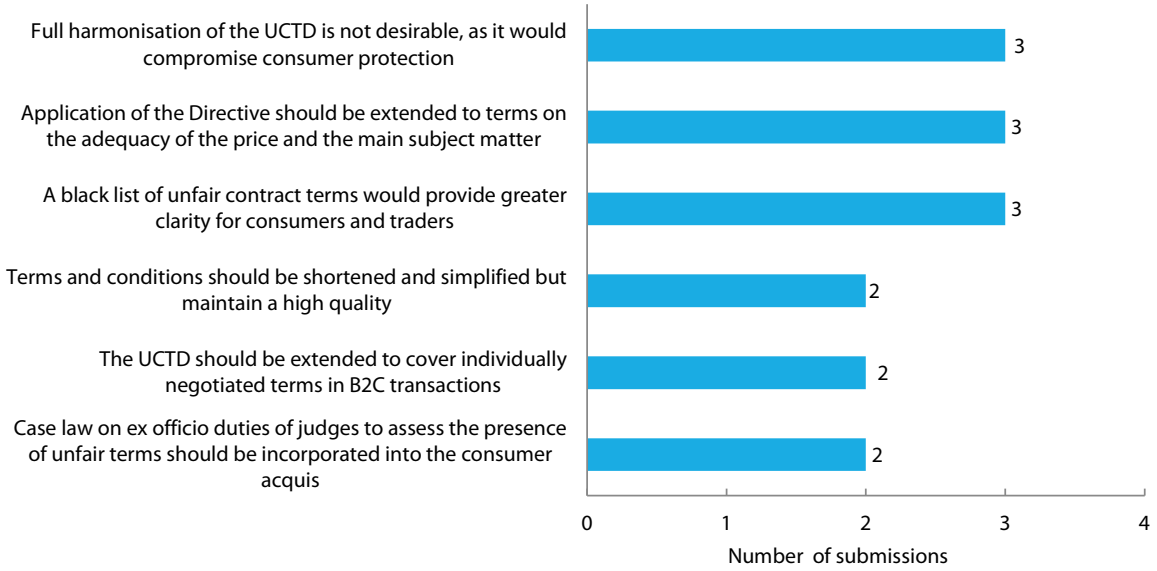
Additional comments made by business stakeholders were that **additional protection for vulnerable consumers in standard contract terms was unnecessary** (2 submissions), and that they saw **no need to incorporate CJEU case law** on the *ex officio* duty of judges to assess the presence of unfair terms (2 submissions):

- *"[We are] not aware of a need for such additional requirements [for vulnerable consumers]." (BusinessEurope)*
- *"Of course, judges should take into account the case law of the ECJ when ruling in a specific case. On the other hand, judges in national courts should be free to assess if there are particular circumstances that differentiate from previous ECJ case law, justifying a different result. [...] We therefore have difficulties seeing a need for change and thus 'tend to disagree' [on incorporating the case law into the consumer acquis]." (Confederation of Danish Industry)*

6.5.2. Consumer organisations

All three consumer organisations that provided detailed submissions for the public online consultation included comments on the UCTD. The most frequent topics discussed by consumer organisations are shown in the figure below.

Figure 50: Frequency of contract topics addressed by consumer organisations



Overall, the consumer organisations thought that the UCTD provided important protections for consumers, but should be improved or expanded (although not through full harmonisation) to cover a wider range of consumer problems.

The three consumer organisations were unanimous in stating that any **revision of the UCTD should not include full harmonisation**, and that Member States should remain free to introduce stronger protections for consumers where necessary:

- *"A maximum harmonisation is not justified for this Directive because the level of harmonisation of the Directive has not created a barrier to the Single market. Furthermore, full harmonisation is not appropriate because the unfairness of a term can only be assessed by comparing it with a national law." (BEUC)*

All three consumer organisations also agreed that **a black and/or grey list of unfair terms would provide greater clarity** for consumers and traders. However, they emphasised the need for such a list to allow Member States to include additional protections for national consumers:

- *"We support the idea to explore strengthening consumer protection against unfair contract terms by introducing a black list of unfair terms that are always prohibited and which should be updated regularly. This may be*

needed with respect to sector-specific areas, such as air transport contracts [or...] contracts for the supply of digital content." (BEUC)

- *"A 'black-list' of European law should in any case provide for an opening clause for further prohibited terms under national law." (VZBV)*

The three consumer organisations also argued that the **application of the Directive should be extended to terms on the adequacy of the price and the main subject matter**, but also how and where the contract terms are expressed:

- *"In our experience, the exemptions for price and other core terms in Article 4(2) have proved deeply problematic to apply in practice. We believe they add disproportionate complexity and uncertainty to the regime and should be removed." (Which?)*
- *"During the Fitness Check of consumer law, it should be assessed in which way terms and conditions are expressed, for example whether they are drafted in plain, intelligible language. It is also important to take into account whether terms and conditions can be easily accessed at a place where the consumers reasonably expect them to find." (BEUC)*
- *"A widespread annoyance for consumers is that general business conditions are very long and/or written in English. […] Contract terms must be drawn up in the language in which a trader communicates in other business transactions with consumers and which a consumer committing to them understands." (VZBV)*

Two of the three consumer organisations pointed in particular to the length and complexity of contracts as a potential source of unfairness, and therefore argued that **contract terms should be simplified and shortened**, but not in a way that would sacrifice quality:

- *"Furthermore, terms must be easy to read and clear, irrespective of their content. General business conditions may only be so long that it is possible for a consumer in the respective situation to read and understand them without disproportionate effort." (VZBV)*
- *"It is not realistic to expect an average consumer to read and understand all terms and conditions if they are so lengthy […] the current state of terms and conditions for digital services is bordering on the absurd. The Fitness Check should therefore take into account consumer reality and seek to find ways – tested on real consumers - of shortening and simplifying terms and conditions while increasing their quality standard." (BEUC)*

On a related topic, two of the three consumer organisations argued that **the UCTD should also apply to individually negotiated terms**, given the imbalance in bargaining power and information between the trader and consumer:

- *"Even where a consumer has individually negotiated a contract with a trader, there will be many cases in which there remains a considerable difference in the bargaining power of the parties. This may be due to factors such as information asymmetry […] a lack of true competition in the market […] or simply a lack of confidence or experience. In such cases, negotiated terms carry the same risk as standard contract terms." (Which?)*

Finally, two consumer organisations **welcomed the inclusion of CJEU case law** on the ex officio duties of judges to assess the presence of unfair terms into the consumer acquis:

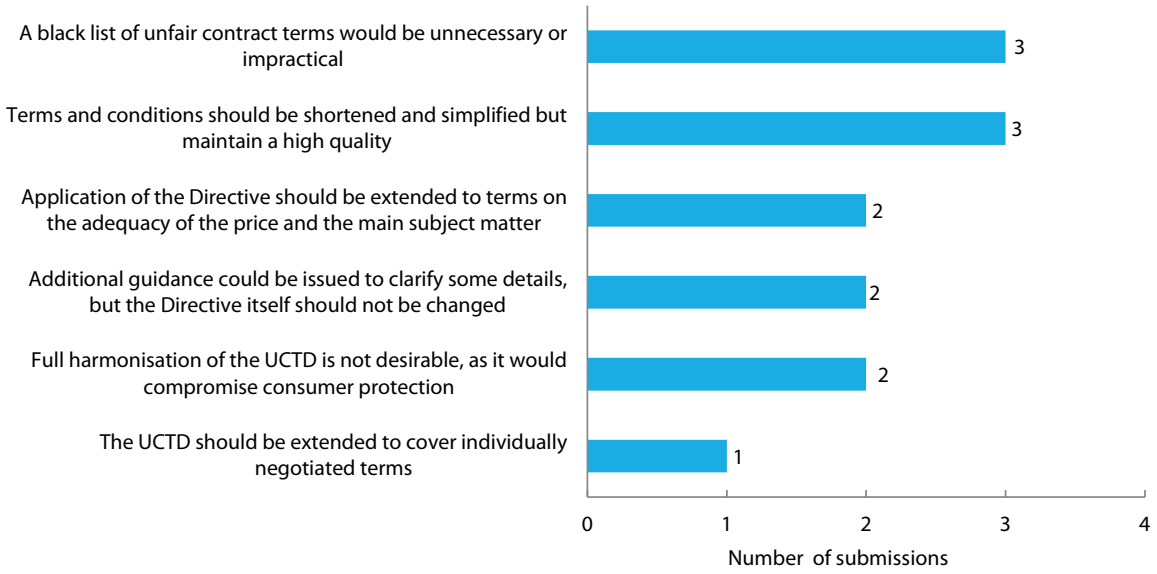
- *"It is also important, when reviewing the fitness of the UCTD, to consider the fitness of associated principles which have evolved through CJEU case law. Where those principles remain fit for purpose, they should be captured in the text of the Directive for certainty and clarity. For example, [our national] law now expressly incorporates the principle that courts adjudicating on contractual disputes involving consumers have a duty to*

proactively consider whether a contract term is unfair, regardless of how the case has been argued." (Which?)

6.5.3. Public authorities and other organisations

Six public authorities and two other organisations (the Law Society of England and Wales) provided specific comments on the UCTD in their submissions. The most common topics addressed by public authorities and other organisations are shown in the figure below.

Figure 51: Frequency of contract topics addressed by public authorities



Public authorities had a more mixed perspective on the UCTD than business and consumer stakeholders. While some argued that consumer contract legislation was sufficient in its current form and did not support revision of the Directive, others argued that it should go further in its protections for consumers.

One of the most common comments, noted by three public authorities, argued that consumer contracts ought to be **simplified and shortened**:

- *"Given the importance of unfair 'small print' clauses in consumer understanding, [we are] analysing responses to a call for evidence on how terms and conditions can be made more accessible to consumers. The Government intends to work with [consumer and business stakeholders] to develop online model terms which are easier to understand and engage with and recognise consumer behaviour."*

Another common comment, noted by two public authorities and one other organisation, was that **a black list of contract terms would be unnecessary or impractical**. However, in at least one case, a public authority noted that a black list may be helpful in particular sectors:

- *"The courts were sceptical about the introduction into EU law of a black list of contract terms which are always prohibited. They pointed out that such a list would presuppose maximum harmonisation of contract law, and they advocated avoiding excessively detailed provisions." (Bavarian State Ministry of Justice)*
- *"[we do not deem it] necessary to introduce a "black list" of contract terms that are always prohibited. However, some stakeholders suggest that it might be relevant to examine whether – within certain sectors, including*

supply of digital content – there is a need for a black list of contract terms." (Ministry of Business and Growth Denmark)

Two public authorities suggested in general terms that they saw **no need to revise the Directive** at all:

- *"[Our government] supports rules on unfair contract terms. [We] are not aware of any malpractice in relation to the Unfair Contract Terms Directive. This is seen as an indication that the rules have the intended effect." (Ministry of Business and Growth Denmark)*
- "*[We] currently see no urgent need to adapt this Directive.*" *(Austrian Federal Chamber of Labour)*

Additionally, two public authorities argued that **full harmonisation of the UCTD would lower consumer protection** in Member States that already had stricter laws regulating consumer contracts:

- *"The previous attempts by the European Commission to modify EU law on contractual terms, always represented a great problem for [our country]: the threat of drastically reduced consumer protection. This alone was enough to explain why the proposals were rejected." (Austrian Federal Chamber of Labour)*

Among those public authorities that were in favour of revising the Directive, the most common suggestion was that the **application of the Directive should be extended to terms on the adequacy of the price and the main subject-matter**:

- *"In our view judgments of unreasonableness must be able to cover the price and the main object of the contract." (a national ministry)*
- *"The delineation of main performance obligations (not subject to fairness tests) and ancillary performance obligations (subject to fairness tests) has partly proven difficult in practice and has the result that transparent and consistent assessment is often missing in case-law." (Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection)*

Finally, one public authority argued that the UCTD should be **expanded to cover individually negotiated terms** in business to consumer contracts:

- *"Judgments of unreasonableness under civil law should be able to cover contractual terms negotiated individually." (a national ministry)*

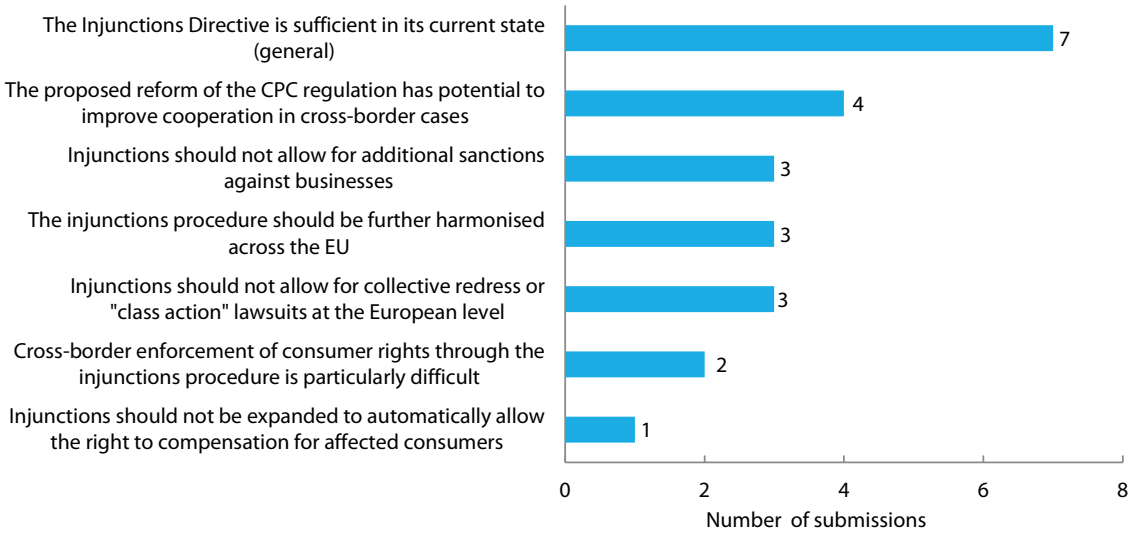
6.6. Injunctions Directive

In total, 22 of the 55 position papers submitted to the public online consultation provided comments on the Injunctions Directive (ID). From these 22 position papers, 13 distinct topics on injunctions could be identified across stakeholder groups.

6.6.1. Business and business associations

A total of 12 individual businesses or business associations provided comments on the ID in their position papers. The most frequent ID-related topics that were discussed in papers provided by the business stakeholders are shown in the figure below.

Figure 52: Frequency of ID topics addressed by business stakeholders



Overall, business stakeholders tended to prefer that the injunctions procedure remain unchanged from the status quo. The most common remark from business stakeholders on the issue, noted in 7 submissions, was a general comment that **the provisions of the ID were already sufficient**:

- *"In general, the current application of injunctions has proved to be an effective tool to enforce current consumer protection law." (ETNO/GSMA)*
- *"[We believe] that the UCPD, the Injunctions Directive, together with the European Small Claims Procedure, and ADR/ODR procedures and representative actions provide the basis for effective redress and enforcement if properly applied. We have not experienced any significant issues with how the Injunctions Directive has been applied in practice." (Direct Selling Europe)*

Other comments from business stakeholders further emphasised the point that it was not necessary to expand the scope of the Directive. In particular, business stakeholders urged that the ID **not be revised to include sanctions** (3 submissions), **nor to include automatic rights to compensation** for consumers (1 submission).

- *"German consumer protection legislation is geared towards private enterprise and is based on a system of rapid and effective involvement of private players through injunctions. The civil courts have jurisdiction in the event of disputes. The imposition of penalties by public authorities would lead to reviews by the administrative courts and introduce a completely new parallel system for cross-border cases. It is therefore unacceptable." (German Advertising Federation (ZAW))*
- *"The right for qualified institutions to seek an injunction must not be extended to allow claims for damages on behalf of consumers who have been affected." (German Direct Selling Association)*

On the topic of sanctions and automatic rights to compensation under the ID, business stakeholders often made a link to the possibility of collective redress or "class action" lawsuits by consumers. Three submissions commented that the consumer acquis **should not be expanded to permit class action lawsuits** at the European level:

- *"The legal framework for class actions in the EU should remain unchanged. The experience of the class actions in the USA shows the danger that those actions pose to the economy. A third of companies in the USA affected by a class action result in bankruptcy, as the mere threat of a class action has a negative effect on the share prices of the companies concerned. Also, companies are in many cases blackmailed with the lodging of class actions. Therefore, we would favour the status quo as regards the main legal framework of class actions in the EU." (Direct Selling Europe)*
- *"The introduction of class action at EU level is, in our view, particularly controversial since at EU level the complainant has the choice of the most affordable legal venue (forum shopping). This increases companies' risk of damage." (German Direct Selling Association)*

However, while business stakeholders did not want the substance of the Injunctions Directive to be revised, three submissions requested that the existing injunctions procedure be **further harmonised** across the EU:

- *"…the fact that it has been left for each Member State to decide which bodies are qualified has led to differences across the EU. For example, there are differences in terms of criteria that bodies in member states must meet to be qualified. As a result there are differences across Europe, also regarding how many of these bodies exist in each country. […] For retailers selling cross border the system is very unclear. From the business perspective it would be much clearer and fair if criteria for qualifying an organisation [to pursue injunctions] were harmonised at the EU level and were the same for all EU countries. This would ensure more consistency." (Direct Selling Europe)*
- *"Injunction proceedings are already sufficiently fast and, as described in EC's Guidance on the implementation and application of the Unfair Commercial Practices Directives, injunctions can already today apply in many different situations, to enforce rights of consumers and businesses. EC should facilitate the broader, effective and more harmonised application of these instruments across Member States, based on the Guidance's findings." (ETNO/GSMA)*

Two submissions from business stakeholders acknowledged the difficulty that qualified entities face in pursuing cross-border injunction cases. However, in connection with the ID, business stakeholders tended to mention the proposed **reform of the CPC Regulation** (mentioned by 4 business submissions) as the appropriate venue to improve cross-border cooperation on consumer law:

- *"The injunction procedure is very important for the enforcement of consumer rights. […] However, the Injunctions Directive has not proven to be a useful tool for consumer when it comes to cross-border infringements. It can be explained by many reasons: different level of powers given to national authorities, high costs involved in cross-border actions, procedural obstacles, such as problems to obtain evidence or slow-paced proceedings. […] Thus, it is very important to exploit the potential for enforcement cooperation of national authorities in Europe. The review of the CPC Regulation is the tool which could help supporting it." (Seldia)*
- *"As mentioned a number of times, uniform enforcement is as important as harmonised legislation. […] There are no major advantages to adhering to the legislation, if foreign competitors are able to sell the same goods for a lower price by, at no risk at all, violating the regulations. All we can do therefore, is to strongly urge the focus to be placed on enforcement in all Member States, and as mentioned, we therefore also support a tightening of the CPC Regulation." (Confederation of Danish Enterprise)*

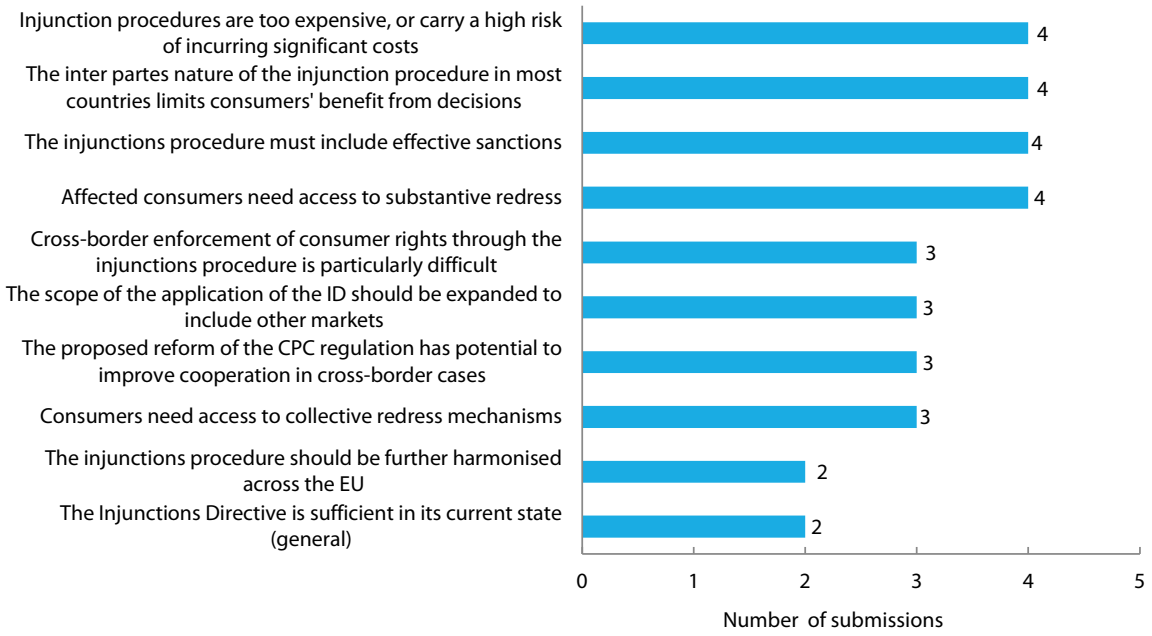
6.6.2. Consumer organisations, public authorities and other organisations

Of the three consumer organisations that produced position papers for the public online consultation, all of them included comments on the ID. Two out of the three consumer organisations that responded are qualified entities that have been authorised to bring injunction actions in their Member States, and the third is a European-level organisation.

Four public authorities also included comments on the ID. As these public authorities tended to address topics that were similar to the consumer organisations, they have been included in this section, along with three organisations that had identified their institution type as "other".

The figure below shows the frequency of ID-related topics discussed by consumer organisations, public authorities and the two other organisations.

Figure 53: Frequency of ID topics addressed by consumer organisations, public authorities, and other responses



In general, most consumer organisations and public authorities commented that although their experience suggests that the ID is a useful tool, they see many ways in which it could be improved.

The three consumer organisations were unanimous (and supported by one public authority) in commenting that **injunction procedures carried high costs**, or significant risks of incurring high costs, for qualified entities:

- *"The principal reason why the power to take injunctive action has been so little used in [our country] is because enforcers face substantial cost risk. Court action in [our country] is very expensive. Not only does the enforcer have to bear its own costs of bringing proceedings, if the enforcer loses the action then it also has to pay the trader's legal costs, which could be very significant. This problem is often exacerbated by an inequality of arms as between a consumer organisation or public enforcer on the one hand, and a large corporation with a substantial litigation budget on the other. For [our organisation], the cost of litigating, and our exposure to the risk of paying the trader's costs, has inevitably been a key consideration when contemplating action." (Which?)*

Additionally, all three consumer organisations (and one public authority) noted that the ***inter partes* nature** of injunction decisions[25] in most countries made it difficult for a consumer to rely on a decision to receive compensation (which often requires a separate civil procedure), or for other consumers facing similar issues to rely on similar decisions made in the past:

- *"…with injunctive actions brought under the Directive, consumers cannot be compensated for any harm they suffer. The situation is aggravated further by the fact that, in most countries, the injunction decision has effect only* inter partes *and cannot be relied upon in follow-up actions for compensation. Therefore, consumers often remain empty-handed." (BEUC)*
- "*The effect of injunctions as currently designed is limited, however. They have an effect only for the future and directly* inter parties. *Under [our national] law, in order to be able to benefit from the legal effects of an injunction on the use of general business conditions consumers have to invoke the injunction expressly. Consumers who in the past suffered harm as a result of an infringement later prohibited frequently do not benefit from an injunction at all, or only to a very limited extent, and have to take individual action.*" *(VZBV)*

The three consumer associations (and one public authority) also emphasised that without **clear and effective sanctions**, injunctions would have very little effect on trader behaviour:

- *"…the threat of an injunction carries very little deterrent effect. Traders know that, due to resource constraints and regulatory prioritisation, injunctions will only be pursued in a small proportion of cases [...] and it can take several years for a final judgement to be obtained. The trader can reap the benefit of the infringement in the meantime with the only consequence at the end of the process (other than the payment of legal costs) being that they must change their behaviour going forward." (Which?)*

In particular, on the topic of sanctions, consumer organisations were concerned about the lack of consequences for profits gained through breaches of consumer law:

- *"In order to avoid incentives to commit infringements, it is necessary in particular to prevent enterprises from being able to retain the gains they have made as a result of the infringement." (VZBV)*

The three consumer organisations (and one public authority) strongly emphasised the need to link the injunctions procedure to **substantive redress** for consumers:

- *"There are no consumer rights without redress. […] The greatest shortcoming of the injunctions procedure is the absence of redress possibilities. Besides protecting the collective interests of consumers, individual consumers need to be able to obtain redress where traders behave differently from their obligations." (BEUC)*

Additionally, within the topic of redress, the three consumer organisations pointed to a need for **collective redress mechanisms** where many consumers have been affected by the same problem:

[25] *Inter partes* ("between parties") decisions are binding only on the parties to a particular case. Where a qualified entity has taken action against a trader, this means that the consumer, as a third party, may not automatically rely on the injunction decision in civil proceedings to obtain redress, and that any consumer wishing to rely on the injunction decision in a future case must petition the court to do so.

- *"Even where remedies are available, monetary and other access barriers hinder consumers from starting costly proceedings. Many consumers do not go to court individually as it is expensive, complicated, time-consuming and intimidating; even more so in cross-border cases. […] Collective redress mechanisms are necessary to obtain compensation for the harm suffered." (BEUC)*

Although some respondents did not draw a clear distinction between domestic and cross-border injunctions in their position papers, three organisations (one consumer organisation, one public authority and one other institution) singled out **cross-border injunctions as particularly costly and difficult**:

- *"In case consumer organisations wish to seek cross-border injunctions, a number of additional obstacles exist: The high costs involved in cross-border actions are a major hindrance; so 'pleading abroad' is often unaffordable for consumer organisations… even where the injunction is successful, there is a risk of non-reimbursement of all costs. […] Cross-border procedures are rather slow. […] There are other procedural obstacles, which relate to obtaining evidence and accessing the data of the trader from abroad. The fact that 'foreign' consumer organisations are often not well aware of local structures complicates things even more." (BEUC)*

However, on the topic of cross-border enforcement, three submissions (by one consumer organisation, one public authority, and one other institution) suggested that the **reform of the CPC Regulation** could play a major role in improving cross-border cooperation in interaction with the ID:

- *"We would like to emphasise the importance of injunctions and the need to make injunction proceedings less cumbersome and costly and to discuss the link to binding effects and redress aspects. […] In this respect, the review of the Regulation on consumer protection cooperation (CPC Regulation) could support better enforcement and cooperation of national authorities. […] The implications of the CPC Regulation review on the enforcement and enforceability of the consumer law acquis should be discussed during the Fitness check of consumer law." (BEUC)*
- *"In connection with the revision of the CPC Regulation it should be considered whether the Injunctions Directive is relevant, or if it might be appropriate to incorporate some of the provisions into the CPC Regulation." (Ministry of Business and Growth Denmark)*

Three entries (two consumer organisations and one public authority) additionally suggested that the **scope of the ID be expanded** to cover areas beyond those listed in the Annex to the Directive:

- *"The question of the limited scope of the Directive deserves attention too. There is no valid reason to restrict the Directive to consumer protection measures which are currently listed in the annex. For instance, areas such as product liability, data protection, transport or financial services, should also be covered." (BEUC)*

Finally, two submissions, both public authorities, thought that the Directive was **sufficient in its current state**:

- *"As regards the effectiveness of injunctions against illegal practices, the courts consulted confirmed their effectiveness in all the fields referred to in the consultation." (Bavarian State Ministry of Justice)*

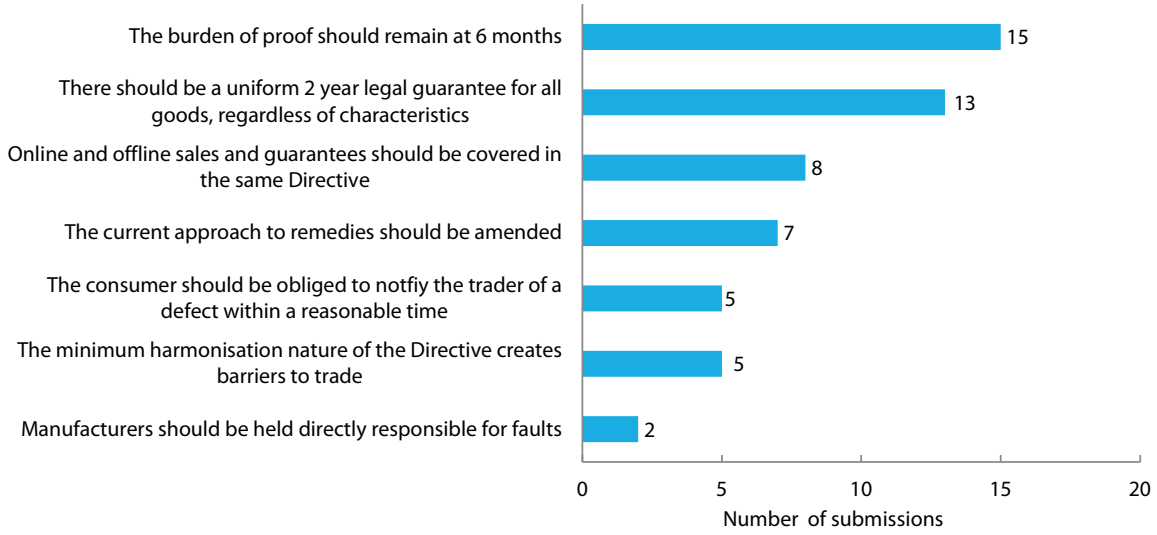
6.7. Sales and Guarantees Directive

Out of the 55 submissions to the public online consultation, 27 provided specific comments on the Consumer Sales and Guarantees Directive. From these 27 submissions on the Directive, 12 distinct topics were identified across the three stakeholder groups.

6.7.1. Business and business associations

In total, 17 businesses or business organisations provided comments on the Directive in their submissions. The most frequent topics addressed by business stakeholders are shown in the figure below.

Figure 54: Frequency of sales and guarantees topics addressed by business stakeholders



Business stakeholders generally stated that the Directive is sufficient in its current form, and proposed only minor changes.

Most businesses and business associations were in favour of **maintaining the current six month period** for the reversal of the burden of proof[26] (15 submissions), arguing that most defects were discovered by consumers within this period:

- *"The reversal of the burden of proof should be six months as it applies in 25 Member States[. I]n most cases where goods are defective (71%) this happens in the first 6 months since purchase." (Direct Selling Europe)*

Most business stakeholders were of the opinion that the Directive should be revised to contain a **uniform two-year legal guarantee for all goods**, regardless of the characteristics of the good (13 submissions):

[26] Under current legislation, if the consumer discovers a defect in a good within six months, the defect is presumed to have existed at the time of purchase. After six months, the burden of proof shifts to the consumer to prove that the defect already existed at the time of purchase.

- *"The existing two-year guarantee period is a fair balance between the interests of consumers and businesses. If the period were to be extended to depend on the characteristics of the good, how would it work? If it is made dependent on the life expectancy of the good, then how do you measure the life expectancy?" (Confederation of Danish Industry)*
- *"There should be a uniform two-year guarantee period for all goods. This is currently applicable in the majority of Member States and most consumers consider 2 years to be the legal guarantee period even in countries where guarantee is longer or unlimited. According to the statistics, in 96% of recent problems with defective goods, the consumers discovered the defect during the first 2 years. We are strongly against making a legal guarantee system dependent on the characteristics of the good. So far such a system exists only in two countries […] and in both countries it proved to be too complicated for the average consumers and business to understand it and apply it comfortably." (Direct Selling Europe)*

Additionally, eight business stakeholders commented on the proposed Directive on certain aspects concerning contracts for the online and other distance sales of goods, arguing that introducing a new Directive for the online environment would lead to legal fragmentation and uncertainty. Business stakeholders generally preferred that **online and offline sales and guarantees be covered in the same Directive**:

- *"The recent proposal for the Directive on certain aspects concerning contracts for the online and other distance sales of goods […] would, if adopted, apply only to online sales. The idea is that for offline sales the Directive 1999/44 on Sales and Guarantees ("Sales Directive") would still apply, resulting in two different sets of consumer rights which will be used depending on how consumers buy goods: offline or online. This would result in increased uncertainty for consumers and a legislative burden for multi-channel businesses, which would outweigh the potential benefits of full harmonization of the rules of liability and remedies for defected goods if it is applicable to ONLY online sales." (Seldia)*

Seven of the business stakeholders stated that the **current approach to remedies in case of non-conforming goods should be revised** to clarify the hierarchy of remedies approach and allow the trader to choose the most cost-effective option. Business stakeholders generally argued that the termination of a contract should be the last resort, or not available at all in the case of minor defects:

- *"For high-value goods and for innovations, in particular, the precedence of subsequent performance is essential from the business point of view. Moving away from the ranking of possibilities for redress would lead to considerable cost increases for the company. For the consumer this would mean higher prices. This would also be the case if the buyer was entitled to withdraw in the light of just minor defects. Shifting from the second level of the hierarchy of rights to a right to withdraw for just a slight defect is hard to reconcile with resource conservation and environmental protection. Goods returned to the seller after a contract has been ended are often no longer saleable and therefore have to be thrown away." (German Direct Selling Association)*

Furthermore, five of the business stakeholders stressed that the consumer should have a **duty to notify the trader** of a defect within a reasonable time:

- *"The obligation for consumers to notify the defect within a certain period of time should be retained. Otherwise, the balance of interests between consumers and businesses would be significantly disrupted. In case of no such obligation to notify, a consumer who detects a (minor) defect could use the faulty product for free for a long period of time and then still assert his/her rights resulting from the legal warranty." (Direct Selling Europe)*

Five of the 20 businesses or business associations commented that the **minimum harmonisation of the Directive created barriers to cross-border trade**:

- *"[We] support a common level of high and proportional consumer protection across the EU. Most of the directives under review have mainly set minimum standards to which Member States added new layers of rules resulting in a fragmented regulatory framework and different levels of protection. For example, the transposition of the Consumer Sales and Guarantees Directive led to at least six different national regimes of legal consumer guarantees." (AIM)*
- *"Rules should be fully harmonised at a balanced and proportionate level. Full harmonisation is the only way forward to remove legal fragmentation and ensure consistent legal framework across the EU. The Consumer Sales and Guarantees Directive 1999/44 should be the basis for full harmonisation." (EuroCommerce)*

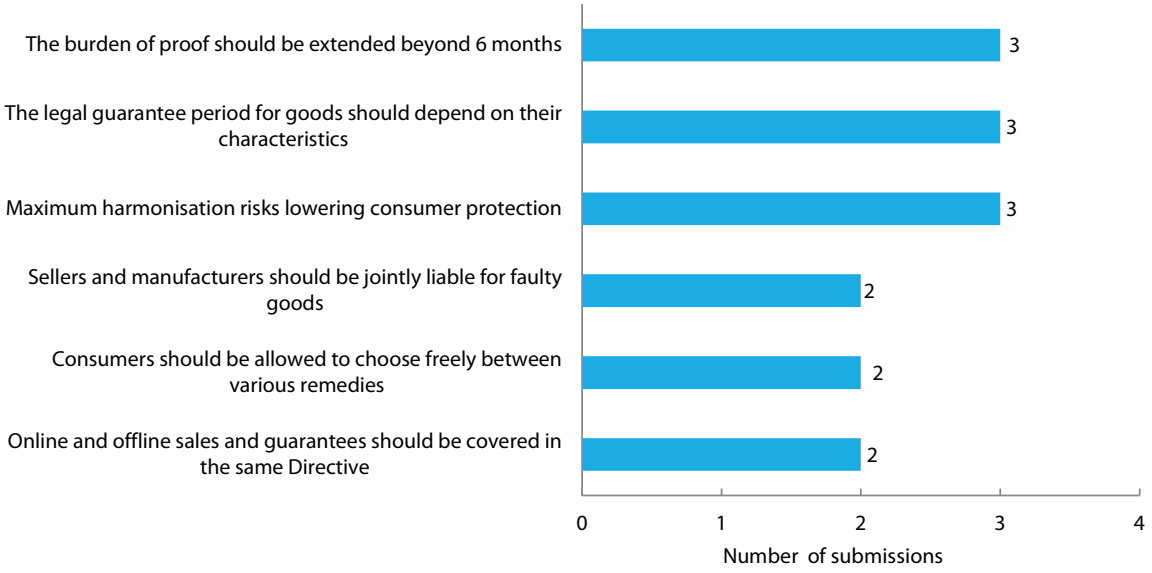
While most of the business stakeholders did not discuss the question of liability of sellers and producers, two attached particularly high importance to this issue and argued that **manufacturers should take on more responsibility for defects found in consumer goods**:

- *"[…] the Directive should also include the right for the final seller to obtain redress from its supplier in case a consumer is compensated for a faulty product. In such cases the final seller must have the legally-binding right to recover his costs from his supplier. The final seller is not the producer and as such he does not have any influence on the quality of the product." (CECRA European Council for Motor Trades and Repairs)*

6.7.2. Consumer organisations

All three consumer organisations that provided detailed submissions for the public online consultation included comments on the Sales and Guarantees Directive. The most frequent topics discussed by consumer organisations are shown in the figure below.

Figure 55: Frequency of sales and guarantees topics addressed by consumer organisations



While the consumer organisations generally commented that the Directive had set a strong minimum standard, all three organisations agreed that the Directive could be revised to improve consumer protection.

All three consumer organisations emphasised that the Directive should ideally **remain as a minimum harmonisation measure**, allowing Member States to introduce new measures or maintain their current regime in cases where it already provides greater protection for consumers:

- *The benefits to consumers of full harmonisation in this area are not apparent. Indeed, as [our] legislation is more favourable for consumers in several key areas, there is much to lose from a consumer perspective, were a fully-harmonised Directive not to adopt a robust level of consumer protection. This is true for many Member States, where protections that consumers have come to understand and value are in jeopardy from the Commission's proposals. We are therefore of the view that, unless a recasting of the Directive can offer consumers robust protection in a number of key respects, minimum harmonisation remains necessary." (Which?)*

The three consumer organisations unanimously stated that the **burden of proof should be extended beyond six months** to take account of hidden faults that take longer for consumers to discover:

- *"We are of the view that six months is not long enough for the burden of proof to be placed on the trader. As products become more and more complex, such as electrical products, it is increasingly hard for consumers to be able to identify hidden faults, let alone the cause of a fault. Traders are in a considerably better position to be able to do so. This is especially the case for digital products and digital content. We therefore see merit in extending the period for which the burden of proof is reversed for the sale of goods and believe that two years would be an appropriate time period for this extension. With regard to digital products and digital content, the burden of proof should always be with the trader; there should be no time limit whatsoever on this." (Which?)*

Furthermore, all three consumer organisations agreed that the **legal guarantee period should be extended past two years** for certain durable goods:

- *"A blanket two year approach is not appropriate when clearly different goods can be expected to last for different lengths of time. For example, high-value, high-durability items (such as furniture, automobiles and many electrical products) can be expected to last well beyond two years and non-conformity is likely to come to light after the two year period has expired. If we take electronic products as an example, our research shows that for many common electronic products the two year period is not anywhere near sufficient to ensure that consumers who have faulty products will be able to access remedies in relation to those products; instead, an arbitrary two year cut off will deny many consumers their rights." (Which?)*
- *"A legal guarantee period must live up to the longer lifespan of many products and not frustrate legitimate consumer expectations. […] There should be a longer period for durable products according to their expected life-span; this is consistent with the objectives of the circular economy agenda." (BEUC)*

Two of the three consumer organisations further argued that liability in the case of a warranty claim can cause confusion among the consumers, as many traders refer them directly to the manufacturers. The two consumer organisations therefore proposed **a clear joint liability approach for sellers and producers**:

- *"In claims are made under warranty, traders routinely refer to manufacturers. For consumers, it is then frequently unclear whether they possibly lose or jeopardise more far-reaching claims in relation to the trader. Here it would be better if consumers could apply directly to the manufacturer and from the start have two contacts for the assertion of warranty rights. […] Dealers and manufacturers should be liable – jointly and severally – during the warranty period for quality defects." (VZBV)*
- *"What is needed is a more ambitious legislation: as stated in the Preamble of the Directive, future attempts to further harmonise EU sales law should relate to more protection for consumers, for example by providing for the producer's direct liability. [We] advocate for a joint liability of sellers and producers which should be based on the concepts which already exist in many Member States." (BEUC)*

Additionally, two consumer organisations commented on the necessity of **allowing consumers to have a free choice between remedies**, and wanted the Directive to be revised in order to reflect this:

- *"It must be up to the consumer to decide which remedy he prefers because it is the trader who is in breach of contract. A free choice of remedy, established and well-received in a number of Member States, is the fair legislative response to misconduct from the trader." (BEUC)*

As with the business stakeholders, two of the three consumer organisations stated that **online and offline sales should not be subject to different Directives**:

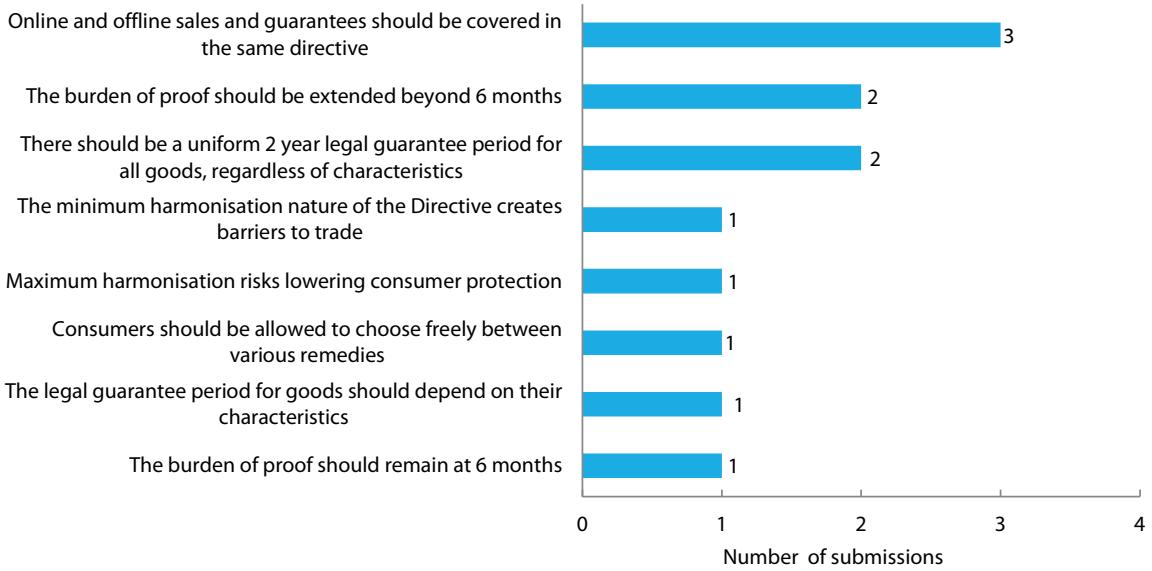
- *"[…] we stress that a fragmentation between offline and online marketplaces should be avoided because it would come at the expense of consumer protection, would undermine clarity and consistency for both consumers and traders, and would place a stranglehold on free competition between offline and online sales." (BEUC)*
- "*Online and offline sales must continue to be treated equally in law in the future. An isolated legal act on warranty rights in the case of online sales, as proposed by the Commission, is therefore to be rejected. […] In the law on guarantees for tangible items, no difference should be made between online sales and stationary sales. The law on the sale of consumer goods should be comprehensively modernised, not only by extending the draft Directive for online sales to stationary sales. Where possible, contracts for*

tangible items and for digital content should be regulated according to the same principles. In particular, the same concept of defect should apply for both types of contract." (VZBV)

6.7.3. Public authorities and other organisations

Five public authorities and two other organisations provided specific comments on the Sales and Guarantees Directive in their submissions. The most common topics addressed by public authorities and other organisations are shown in the figure below.

Figure 56: Frequency of sales and guarantees topics addressed by public authorities and other organisations



Most of the public authorities and other organisations were generally of the opinion that the Directive could benefit from specific revisions to improve consumer protection. For some authorities, however, the current framework was sufficient.

Following the comments made by business stakeholders and consumer organisations, three public authorities also expressed their view that **online and offline sales and guarantees should be covered in the same Directive**:

- *"[We are] therefore concerned to see the European Commission's current proposals for a Directive on certain aspects concerning contracts for the supply of digital content (COM(2015) 634) and for a Directive on certain aspects concerning contracts for the online and other distance sales of goods (COM(2015) 635), which relate in particular to guarantee law. They put at risk [our country's] attempts to implement a coherent overall system for the regulation of guarantees. Creating specific, separate solutions for guarantees relating to distance sales or to digital content would necessarily lead to legal fragmentation." (Austrian Federal Chamber of Labour)*

As with the consumer organisations, two public authorities expressed the need to **extend the burden of proof beyond six months**:

- *"[We] consider that while the legal effectiveness of guarantees could be improved by better informing consumers and increased efforts by consumer protection organisations to use test cases and formal warnings to show businesses that guarantees are an essential part of consumer law, it would also be useful to review and adapt the legal framework itself. For example, it would be worth discussing an extension of the period in which the burden of proof is reversed, since consumers have little chance to exercise their*

guarantee rights once that period ends." (Austrian Federal Chamber of Labour)

- *"Stakeholders argue that it is important to ensure uniform rules regardless of whether a sale happens online or offline and thereby avoid fragmentation of the regulation of consumer protection in connection with a sale." (Ministry of Business and Growth Denmark)*

However, one public authority expressed that they were **satisfied with the current length of the burden of proof** for the trader at six months:

- *"Extending the period in which the defect is presumed to have existed already at the time of delivery of the goods (reversal of the burden of proof) is opposed by the courts. Such an extension would be very hard to justify." (Bavarian State Ministry of Justice)*

Furthermore, two public authorities shared the opinion of business stakeholders regarding the need for a **uniform two-year guarantee period for all goods**, regardless of the good's characteristics:

- *"If the question in fact refers to the legal guarantee period, then we (including the courts) are very sceptical about the differentiation of guarantee periods according to the category of goods. Classification problems, legal fragmentation and continuous disputes about the factual justification of distinctions and equivalences would be the probable results. Caution is also recommended as regards any general or category-specific extension of the guarantee period. The reason underlying the relatively short expiry period of two years is a system whereby the guarantee may be invoked irrespective of fault on the part of the seller." (Bavarian State Ministry of Justice)*

One public authority, however, did argue that **the legal guarantee period for certain durable goods should be extended** past the two-year period:

- *"Statutory rights apply for up to six years in [our country,] providing cover for longer-lasting goods, and encouraging durability. […] If a liability period of two years is introduced then consumers would lose access to remedies for these kinds of goods that a reasonable person would expect to last longer than two years." (UK Department for Business, Energy and Industrial Strategy)*

Public authorities were also split on the question of whether sales and guarantees should be subject to **minimum or maximum harmonisation measures**. While one public authority argued that minimum harmonisation created barriers to trade, another argued that minimum harmonisation was necessary to allow Member States to introduce higher levels of protection:

- *"The current Directive on Certain Aspects of the Sale of Consumer Goods and Associated Guarantees is a minimum [harmonisation] Directive, which led to differences in the implementation in different Member States. This can lead to a heightened administrative burden on traders and hamper cross-border trade in the single market. [We] work, therefore, to pursue uniform regulations where appropriate." (a national ministry)*
- *"The achievement of this objective [of the Directive] was helped by the options left open to Member States in the Directive and by its minimum harmonisation approach. [Our country] used this room for manoeuvre in various ways, for instance by not introducing a general requirement to report defects, or by giving the recipient of the goods the additional possibilities of cancellation of the contract or reduction of the price for a good reason relating to the seller." (Austrian Federal Chamber of Labour)*

Finally, following the arguments of some consumer organisations, one public authority also expressed the view that **consumers should be able to choose freely among different remedies**.

6.8. Consumer Rights Directive

Out of the submissions to the online public consultation that explicitly mentioned the Consumer Rights Directive (CRD), the three main issues discussed by the stakeholders included the following:

- The provision of key information and pre-contractual information requirements;
- The 14 day withdrawal period; and
- 30 days for delivery and passing on the risk.

6.8.1. Business and business associations

Regarding the pre-contractual information requirements in the CRD, business stakeholders emphasised the need to **simplify the information provided to consumers and consolidate the information requirements** with similar or overlapping provisions in other Directives:

- *"Existing consumer information requirements are too burdensome. [When it] comes to the existing consumer information requirements set by several directives, we consider it a very important aim to review the interplay and coherence of those obligations." (Federation of Finnish Enterprises)*
- *"A consolidation exercise [in the area of information requirements] could therefore be useful, but without the need for a fully-fledged legislative revision."*

Some **definitions and particular provisions** of the Directive in the area of pre-contractual information requirements were also the subject of criticism by business stakeholders:

- *"According to Article 6(1a), the trader has to inform the consumer about the 'main characteristics of the goods or services'. This term is not sufficiently defined and the information cannot be provided in a legally certain way in practice. It is especially unclear how detailed the product has to be described without, however, becoming overly descriptive [to the point of] being incomprehensible." (Direct Selling Europe)*
- *"Some information obligations, particularly in relation to selling digital content via subscription services, give rise to confusion. For example, under the requirements of the Consumer Rights Directive consumers must agree during the purchase flow that they have no right to withdraw from a sale of digital content. However, for an ongoing or subscription contract, if the renewal is automatic, consumers must (also under the requirements of the Consumer Rights Directive) be informed that they have a right to terminate the contract. In such circumstances, it is difficult for consumers to determine whether and when they have a right to cancel. Clarification in this area would be helpful." (EDiMA)*

Business stakeholders were also in favour of **drawing a clearer distinction between information requirements in the advertising and pre-contractual stages**, such that the advertising stage would require only simplified information, while more detailed information would be provided in the pre-contractual stage:

- *"Requiring companies to include too much mandatory information at the advertising stage would overload consumers and create unnecessary administrative burdens for companies. The need for more complete information makes more sense at the moment before the conclusion of the contract."*
- *"Of course, there needs to be a fundamental protection against misleading advertising, because such advertising misleads customers and distorts competition. Having said that, it creates unnecessary administrative burdens on companies, and can easily create information overload for consumers, to require companies to include too much obligatory information at the advertising stage when more detailed information can be required at the moment before the contract is concluded." (Confederation of Danish Industry)*

Regarding the presentation of pre-contractual information to consumers using a **simple, uniform model** (i.e. through the use of icons), business stakeholders generally argued that such a requirement would be helpful, but difficult to implement in practice, particularly across sectors:

- *"Simplification is essential to help reaching out to consumers. Uniform models such as the use of icons or logos should be encouraged but not imposed for all information requirements across sectors. This would be difficult to achieve."*
- *"The intention is good and we don't want to dismiss the idea totally, but we are sceptical [as] to whether it would add sufficient value without disproportionate costs and inflexibility." (Confederation of Danish Industry)*
- *"Both consumers and companies will have different preferences and abilities to provide and process information. A general model provided by policy makers will not necessarily fit the market needs and most likely might not keep up with the technological developments."*

Additionally, at least one business stakeholder commented on the need to **extend information requirements to the criteria used for searches** on online platforms or price comparison tools:

- *"Online platforms should also have to comply with information requirements as applicable to any service. Beyond compliance with current rules, the specific character of some online platforms as gatekeepers for users, may require additional rules to be included in horizontal service regulation. This includes transparency on the criteria for ranking and additional rules that ensure non-discrimination." (ETNO/GSMA)*

Business stakeholders provided various comments on the **14-day withdrawal period**, some emphasising the complications that the current requirements had created for them with respect to the provision of digital goods and services:

- *"We recommend that the Commission updates its guidance to clarify that the withdrawal period in a service contract will start from the moment it begins to be rendered, including any free trial period, and not at the time it converts into a paid service."*
- *"Regarding the right of withdrawal for digital content […] Online purchases of digital content are characterized by the instant availability of the purchased good. [... Our] members have experienced a significant abuse rate of the right of withdrawal for digital content intended for immediate consumption. This is particularly the case with regards to content intended for immediate consumption (such as in-app purchases)." (Bitkom)*
- *"The current rule of 14 days has proven to be a sufficiently long period for consumers. Beyond this safeguard, some larger providers have even voluntarily extended the timeframe. Any regulatory extension should be*

avoided, since it increases uncertainty for many businesses about late cancellation of a concluded contract. In a competitive market, longer timeframes should be based on commercial considerations." (ETNO/GSMA)

Business stakeholders also commented on the use of a dedicated **withdrawal form**:

- *"We recommend that the Commission amends the CRD or updates its guidance to clarify that the consumer must inform the trader of his/her decision to withdraw from the contract by using the dedicated withdrawal form or tool if provided by the traders. Only if no tool or form is available, consumers can make any other."*
- *"The model withdrawal form defined in Annex I part B has turned out to be not very useful in practice. For an ordinary person without any legal knowledge it is impossible to use different (model) instructions on withdrawal depending on what kind of contract is used […] we think there should be cumulative use of different model instructions or a general, all-inclusive version of the instructions on withdrawal." (Direct Selling Europe)*

Additionally, at least one business stakeholder raised concerns regarding the **effects of consumers exercising their right to withdraw**:

- *"According to Article 13 the trader has to refund the price in case of withdrawal as soon as the trader has received the goods back or has received a proof that the consumer has sent the goods back, whichever is the earliest. This means that in some cases the trader must reimburse the price without having seen and checked the returned good. Any possible compensation for use of the product has to be requested later by the retailer and independently settled with the consumer. This causes an unnecessary, additional complication of the withdrawal handling process. Therefore, it should be clarified that the seller only has to refund the price after he has received the returned good and was able to inspect it." (EuroCommerce)*

Finally, at least one business stakeholder commented on the requirements regarding **delivery and the passing on of risk**:

- *"Providing an exact point of time for delivery is not feasible, especially considering the unforeseeable delivery times of transport companies. In addition, in case the consumer choses advance payment as preferable payment method, the seller will not deliver the product before receiving the payment. However, if and when the consumer will make the payment cannot be known by the seller at the moment of offering the product for purchase. Stating a concrete point of time for delivery is therefore problematic. It should be clarified how such cases can be handled in practice. It would be helpful to clarify, for example, that it is sufficient to state a maximum time for delivery or a 'circa'-time." (Direct Selling Europe)*

6.8.2. Consumer organisations

The three consumer organisations did not provide many targeted comments on the CRD in their submissions to the online public consultation. However, provisions of the CRD were occasionally discussed in relation to other Directives under consideration, particularly with respect to pre-contractual information requirements. Clear and accurate information was considered by consumer organisations to be a **prerequisite for the exercise of other consumer rights**, including those foreseen by the CRD:

- *"Information requirements have an impact on key rights, such as the right of withdrawal under the Consumer Rights Directive or the right to ask for repair of a faulty product under the 1999 Sales Directive. Generally, they help balance the information asymmetries that traders and consumers have. It is an undisputed fact that without sufficient information, decisions*

are basically guesswork and wrong information affects the economic behaviour of consumers. Hence, much is at stake." (BEUC)

As already discussed in the section above on general themes, consumer organisations were generally in favour of **simplifying the various information requirements** in the Directives to make information more easily understandable for consumers, while emphasising that the most essential information should remain in place. Consumer organisations often suggested looking into behavioural studies to determine which information should be presented when:

- *"During the Fitness Check of EU consumer law, we recommend to look into the form by which information is presented to consumers and its simplification and to explore the respective consumer reality. It is important to look at how information is given and whether there are best practice examples based on real-world experience and behavioural economics. Mandatory protective rules should be strengthened where appropriate." (BEUC)*
- *"The Commission should examine in concrete and practical terms the extent to which information is appropriate to protect consumer interests, in the light of the generally held information overload. With regard to Consumer Rights Directive 2011/83/EU, but also with regard to the information obligations in other consumer protection provisions, it should be examined whether consumers in practice receive the decisive information at the right time." (VZBV)*

Additionally, consumer organisations commented that pre-contractual information requirements would have to be **reconsidered in the context of the digital market**, in light of the proliferation of online platforms and price comparison tools and the rising use of smartphones and other devices to make online purchases:

- *"Clarification is needed as to how and to what extent the consumer law acquis, including the Consumer Rights Directive, applies to online platforms which facilitate communication and contractual transactions between other market players. There is a need to discuss whether a reform of EU consumer law is necessary or whether the main problems relate to law enforcement." (BEUC)*

Finally, consumer organisations emphasised the importance of the **right to withdraw from online and other distance sale contracts**, and called for further clarity and fewer exceptions to this particular right:

- *"In the case of distance sales, the consumer's right of withdrawal is crucial: if consumers are unable to see the goods before concluding a contract, they should be allowed to test and inspect the goods bought." (BEUC)*
- *"In key areas – such as the right of withdrawal – attention should therefore be paid to a legal situation which is comprehensible and as generally applicable as possible, with clear time limits, the clearest possible data and few exceptions. Where, for instance in e-commerce there is a right of withdrawal, this should as far as possible be available without exception. The present exceptions from the scope of the Consumer Rights Directive, such as for package travel or transport or the exemptions from the right of withdrawal for leisure activities, often lead in practice to confusion which could be avoided." (VZBV)*

6.8.3. Public authorities

Public authorities provided few targeted comments on the CRD in their submissions, but occasionally made connections between the CRD and the other Directives under consideration.

In particular, as discussed previously in the section above on general themes, public authorities generally suggested that **pre-contractual information requirements could be simplified** to the benefit of both consumers and traders:

- *"[Our] government is of the opinion that only the most important and beneficial information should be given the consumers in a purchase situation and be presented in a simple and legible manner." (Ministry of Business and Growth Denmark)*
- *"Unfortunately, the information obligations under EU law are constantly being further extended or overloaded. This frustrates consumers as they then have to sort through the large amount of unimportant information to be provided (under EU law) to find the details that are important for them. Less is more." (a national ministry)*

As with the consumer organisations, public authorities suggested that the simplification of information requirements could be based on empirical studies of consumer behaviour:

- *"Behavioural insights should be used in creating optimal information at the right time and in the right context. Furthermore, the impact of the information on consumer behaviour should be tested in a true environment before implementing new rules in order to secure effectiveness. This could be done in selected countries." (Ministry of Business and Growth Denmark)*

Finally, one public authority commented that they had received concerns from other stakeholders regarding the **difficulties in applying the consumers' right to withdraw** from online and distance contracts:

- *"Stakeholder organisations [in our country] have on several occasions stressed the practical challenges related to the right to return used goods according to article 14 (2) in the Consumer Rights Directive. They argue that it is difficult for the traders to re-sell the returned used goods subsequently and that there is uncertainty about the calculation of the diminished value of the goods. On that basis, [our] government invites the Commission to examine the benefits of this specific article further in the light of the criteria set out for REFIT, including the criteria regarding efficiency, relevance and EU added value." (Ministry of Business and Growth Denmark)*

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