



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 31.03.1998
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96/ 0161 (COD)

Amended proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

**on the sale of consumer goods and
associated guarantees**

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

Explanatory memorandum

I. OVERVIEW OF THE PROCEDURE

On 18 June 1996 the Commission of the European Communities adopted the proposal for a Directive on the sale of consumer goods and associated guarantees, which was transmitted to the European Parliament and Council on 23 August 1996.

It was presented to the Consumer Affairs Council of 25 November 1996.

The Economic and Social Committee delivered its opinion at its 340th plenary session on 27 and 28 November 1996, acting on a proposal from its rapporteur Mr Ettl and co-rapporteur Mr Folias.

The proposal for a Directive was discussed at the Consumer Affairs Council of 3 November 1997.

On 10 March 1998 the European Parliament adopted a legislative resolution embodying Parliament's opinion, acting on a proposal from its rapporteur, Mrs Kuhn. In this resolution the Parliament invited the Commission to modify its proposal on the basis of the proposed amendments.

II. COMMENTS ON THE AMENDMENTS

The European Parliament's amendments can be grouped into several categories. Notably they concern the proposal's scope, the notion of conformity, the consumer's rights, how these rights are exercised in practice, the producer's obligations, commercial guarantees and the final provisions.

1. Scope

Amendments 2, 11, 12, 13, 14, 15, 16 and 17 concern the scope of the proposal for a Directive. The Commission has fully integrated amendments 11, 14, 15 and 17.

Amendments 12 and 16 were integrated with a drafting modification. In amendment 12 the words "excluding buildings" were deleted, because this exclusion is already covered by the expression "moveable goods". In the case of amendment 16 the expression

"and/or" is to be avoided. In this definition is enough to write "or", because this is not an alternative "or", but a cumulative one.

Amendments 2 and 13 were partly integrated. As regards amendment 2, the term "contracts of hire" was deleted, because to include them would alter the scope of the Directive, something which cannot be done within a recital. The term "statutory activity" was rejected. Article 1(2) (c) of the initial proposal corresponds to the traditional definitions of the existing directives. Hence changes should be restricted to a minimum. The part of the amendment which aims to include contracts for the exchange of assets in the scope meets a practical need. On the contrary, it is not necessary to include statutory activity, given the minor importance of such a modification in practice.

Finally, the Commission rejected amendment 1. However, the Directive's reasoning is based on two strands, the internal market but also the consumer protection. Taking into account Parliament's intention to strengthen the consumer policy strand, the Commission has integrated a new recital into the amended proposal incorporating the wording of Article 129a.

2. Notion of conformity

Amendments 18, 19, 20, 21, 22 and 23 concern the notion of conformity. The Commission has integrated amendments 19, 20, 21 and 23.

Amendments 18 and 22 were rejected because they are foreign to this notion of conformity as set out in Article 2. The intention of amendment 18 is already covered by Article 2(2)(d). Moreover, it is unusual in commercial practice for a producer to present the consumer with a sample or model. The elements mentioned in amendment 22 are covered by Article 2(2)(d), which concerns the quality aspects, while Article 2(2)(b) concerns normal use of the good.

3. The consumer's rights

Amendments 24, 26, 29 and 45 concern the consumer's rights. The Commission has accepted amendments 29 and 45.

Amendments 24 and 26 could only be partly integrated. As regards amendment 24, it is preferable not to refer to "actual" delivery. The term delivery on its own gives the Member States an adequate margin for transposition, without broaching the general problem of the transfer of risks, one which is regulated in very different ways and in copious detail in domestic legislation. The part of amendment 26 deleting the second and third indents has not been integrated. These restrictions limit the general liability of the seller for public statements made by the producer or his representative and are special expressions of the general principle of good faith.

4. Exercising rights in practice

Amendments 7, 27, 29, 30, 32 and 33 concern the way the consumer's rights are exercised in practice. The Commission has integrated amendments 7, 29, 30, 32 and 33.

Amendment 27 has not been integrated for the same reason linked to the principle of subsidiarity already mentioned in connection with amendment 24. The term delivery on its own gives the Member States an adequate margin for transposition, without broaching the general problem of the transfer of risks, one which is regulated in very different ways and in copious detail in domestic legislation.

Article 4 of the original proposal has been deleted. This proposal was designed to balance consumers' freedom to choose between their four rights. Since this free choice has been restricted by the introduction of a hierarchy of consumer rights, together with criteria also restricting the consumer's choice in regard to his first two rights, the provision of Article 4(1) is no longer justified. Article 4(2) is in contradiction with amendment 33, which is now the new Article 5, and should therefore be deleted.

5. The producer's obligations

Amendments 3, 4, 5, 10 and 25 concern the producer's liability. The Commission considers that it is preferable to leave this to the Member States. As mentioned in the penultimate recital, an amendment might be envisaged in the light of experience gained in implementing the Directive. Moreover, consumer rights and the current system of this Directive in general are not adapted to the introduction of this approach.

Amendments 6 and 48 concern the producer's obligation to indicate a contact address from which consumers can obtain information to support their claims. These amendments have not been integrated. The system introduced by these amendments might obstruct the internal market.

Finally, amendment 31 concerns the relations between the producer and the seller. The second part of this amendment has not been integrated by the Commission. It introduces a clause similar to Article 6(1) of the original proposal in favour of the seller, which is not justified. The need to protect professional sellers is less important than the need to protect the consumer. In the national legal orders relations between professionals are normally governed by freedom of contract.

6. Commercial guarantees

Amendments 8 and 36 concerning the commercial guarantees were accepted.

7. Final provisions

Amendment 9 concerns consumer information on the seller's after-sales service; amendment 38 concerns general measures to advise consumers of their rights. Amendment 38 has been integrated by the Commission. On the contrary, amendment 9, which refers to an amendment by the European Parliament which has not been adopted, has not been included because it does not correspond to a provision in the operative part of the proposal.

Amendment 39 mandating the Commission to report on the application of the Directive has not been accepted. Such a report is not necessary unless it concerns a specific subject, with a concrete perspective. Moreover, since the transposition provisions have to be integrated into a very large and complex field of national civil law, the time limit of two years will be far too short to analyse experiences in applying the Directive.

Amendment 40 introduces this proposal for a Directive into the Annex to the Directive on injunctions for the protection of consumer's interests. For reasons of legislative technique the amendment has been accepted with drafting emendations.

Amendment 42 on the clause concerning private international law in the proposal for a Directive has been integrated.

Amendment 43 concerns remedies; it has not been included. This problem is too complex and touches on too many questions that lie outside the scope of this proposal for it to be regulated in this context.

III. OVERVIEW

COMMISSION'S OPINION IN REGARD TO THE
PROPOSED PARLIAMENTARY AMENDMENTS

Amend-ment No	Provisions concerned	Commission	New numbering
1	First citation	Refused	
2	Recital 3 a (new)	Accepted provided an element is deleted	Recital 5
3	Recital 6	Refused	
4	Recital 6 a (new)	Refused	
5	Recital 7	Refused	
6	Recital 7 a (new)	Refused	
7	Recital 8	Accepted	Recital 10
8	Recital 9	Accepted	Recital 11
9	Recital 10 a (new)	Refused	
10	Recital 11	Refused	
11	Article 1, paragraph 2, point a)	Accepted	Article 1, paragraph 2, point a)
12	Article 1, paragraph 2, point b)	Accepted with drafting emendation	Article 1, paragraph 2, point b)
13	Article 1, paragraph 2, point c)	Partly accepted	Article 1, paragraph 2, point c)
14	Article 1, paragraph 2, point d)	Accepted	Article 1, paragraph 2, point d)
15	Article 1, paragraph 2, point d) a (new)	Accepted	Article 1, paragraph 2, point e)
16	Article 1, paragraph 2, point d) a (new)	Accepted with drafting emendation	Article 1, paragraph 2, point f)
17	Article 1, paragraph 2 a (new)	Accepted	Article 1, paragraph 3
18	Article 2, paragraph 2, point a)	Refused	
19	Article 2, paragraph 2, point c)	Accepted	Article 2, paragraph 2, point c)
20	Article 2, paragraph 2, point d)	Accepted	Article 2, paragraph 2, point d)
21	Article 2, paragraph 2 a (new)	Accepted	Article 2, paragraph 3
22	Article 2, paragraph 2 b (new)	Refused	

23	Article 2, paragraph 3	Accepted	Article 2, paragraph 4
24	Article 3, paragraph 1	Partly accepted	Article 3, paragraph 1
25	Article 3, paragraph 1 a (new)	Refused	
26	Article 3, paragraph 2	First part only accepted	Article 3, paragraph 2, first indent.
27	Article 3, paragraph 3	Refused	
29	Article 3, paragraph 4, second subparagraph a (new)	Accepted	Article 3, paragraph 5
30	Article 3, paragraph 4, second subparagraph b (new)	Accepted	Article 3, paragraph 6
31	Article 3, paragraph 5	First part only accepted	Article 3, paragraph 7
32	Article 3 a (new)	Accepted	Article 4
33	Article 3 b (new)	Accepted with amendment	Article 5
36	Article 5	Accepted	Article 6
38	Article 5 b (new)	Accepted	Article 7
39	Article 5 c (new)	Refused	
40	Article 5 d (new)	Accepted with drafting emendation	Article 8
42	Article 6, paragraph 2	Accepted	Article 9, paragraph 2
43	Article 7, paragraph 2	Refused	Article 10
45	Article 3, paragraph 4	Accepted	Article 3, paragraph 4
48	Article 3 c (new)	Refused	

This table shows that the Commission accepted 26 out of the 40 amendments approved by the European Parliament, some of which have been accepted either partly or with drafting emendations, or with modifications to the substance.

**Amended proposal for a European Parliament and Council Directive on
the sale of consumer goods and associated guarantees**

THE EUROPEAN PARLIAMENT AND
THE COUNCIL OF THE EUROPEAN
UNION

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof, Unchanged

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure referred to in Article 189b of the Treaty,

Whereas the Community contributes to the attainment of a high level of consumer protection through the measures it adopts in the framework of completing the internal market;

Whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is guaranteed; whereas free movement of goods concerns not only persons acting in the course of business but also private individuals; whereas it implies that consumers resident in one Member State should be free to purchase goods in the territory of another Member State on the basis of a minimum set of fair rules governing the purchase of consumer goods; Unchanged

Whereas the laws of the Member States concerning the sale of consumer goods are quite disparate, with the result that national consumer goods markets differ from one another and that competition between sellers may be distorted; Unchanged

Whereas consumers who are keen to benefit from the large market by purchasing goods in Member States other than their State of residence play a fundamental role in the completion of the internal market by preventing the artificial reconstruction of new frontiers and the compartmentalization of markets; whereas these opportunities have been greatly broadened by new communication technologies which allow ready access to distribution systems in other Member States or at international level; whereas in the absence of minimum harmonisation of the rules governing the purchase of consumer goods, the development of the sale of goods through the medium of new distance communication technologies risks being impeded;

Unchanged

Whereas the sale of consumer goods should cover all types of contract whereby goods are supplied by the seller to the consumer, including contracts where goods are supplied in exchange for another asset in place of the purchase price and contracts where payments are made by instalments and ownership of the goods is not transferred to the consumer until all instalments due have been paid;

Whereas the creation of a common minimum corpus of consumer law, valid no matter where goods are purchased within the Community, will further strengthen consumer confidence and enable consumers to make the most of the internal market;

Unchanged

Whereas the main difficulties encountered by consumers and the main source of disputes with sellers concern the non-conformity of goods with the contract; whereas it is therefore appropriate to approximate national legislation governing the sale of consumer goods in this respect, without however impinging on provisions and principles of national law relating to contractual and non-contractual liability;

Unchanged

Whereas the goods must, above all, conform with the contractual specifications; whereas the notion of conformity with the contract may be considered as common to the different national legal traditions; whereas the seller should be directly liable to the consumer for the conformity of the goods with the contract; whereas this is the traditional solution enshrined in the legal orders of the Member States; whereas, nevertheless, the seller should be free to pursue remedies against his own seller or the producer when the non-conformity is the result of an act of commission or omission on their part;

Unchanged

Whereas the goods must, above all, conform with the contractual specifications; whereas the notion of conformity with the contract may be considered as common to the different national legal traditions; whereas the seller should be directly liable to the consumer for the conformity of the goods with the contract; whereas this is the traditional solution enshrined in the legal orders of the Member States; whereas, nevertheless, the seller should be free to pursue remedies against his own seller or the producer when the non-conformity is the result of an act of commission or omission on their part;

Unchanged

Whereas, in the case of non-conformity of the product with the contract, consumers should be entitled to request that the product be repaired or replaced, or to a reduction in the price paid by way of damages or cancellation of the contract of sale; whereas, however, exercise of these rights should be limited in time and time limits laid down during which these rights may be invoked against the seller;

Unchanged

Whereas, in the interest of a stable business environment and good faith in the relations between the Contracting Parties, it should be incumbent on the consumer to notify the seller of any non-conformity he detects within a short period; whereas in order to allow the parties to reach amicable settlements without immediately having to institute legal proceedings to safeguard their rights the limitation period should be interrupted once the consumer draws attention to the lack of conformity of the goods;

Deleted

Whereas it is current practice, for certain categories of goods, for sellers and producers to offer guarantees on their products designed to insure consumers against any defect which becomes manifest within a certain period; whereas this practice can stimulate competition; whereas, however, these guarantees may be a simple publicity ploy and deceive the consumer; whereas to ensure market transparency certain common principles applicable to the guarantees offered by the economic operators should be laid down;

Whereas it is current practice, for certain categories of goods, for sellers and producers to offer commercial guarantees on their products designed to insure consumers against any defect which becomes manifest within a certain period; whereas this practice can stimulate competition; whereas, however, these guarantees may be a simple publicity ploy and deceive the consumer; whereas to ensure market transparency certain common principles applicable to the guarantees offered by the economic operators should be laid down;

Whereas the rights granted to consumers should not be excludable by common consent between the parties since otherwise the legal protection afforded would be vitiated; whereas consumers should always be entitled to rely on the rights resulting from this Directive or any other applicable national provision, even if they accept the implementation of the guarantee; whereas consumer protection resulting from this Directive should not be reduced on the grounds that the law of a non-member country is applicable to the contract;

Unchanged

Whereas legislation and case-law in this area in the various Member States show that there is growing concern to ensure a high level of consumer protection; whereas in the light of these trends and the experience acquired in implementing this Directive it may be necessary to envisage more far-reaching harmonisation, notably by stipulating the producer's direct liability for defects for which he is responsible;

Unchanged

Whereas Member States must be allowed to adopt or maintain in force more stringent provisions, in the field covered by this Directive, to ensure a yet higher level of consumer protection,

Unchanged

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope and definitions

1. The purpose of this Directive is the approximation of the laws, regulations and administrative provisions of the Member States on the sale of consumer goods and associated guarantees in order to ensure a uniform minimum level of consumer protection in the context of the internal market.

Unchanged

2. For the purposes of this Directive,

Unchanged

(a) "Consumer" means any natural person who, in the contracts covered by this Directive, is acting for purposes which are not directly related to his trade, business or profession;

(a) "Consumer" means any natural person who, in the contracts covered by this Directive, is acting for purposes which are not directly related to his trade, business or profession;

(b) "Consumer goods" means any goods, excluding buildings, normally intended for final use or consumption;

(b) "Consumer goods" means any moveable goods that are supplied by sellers to consumers;

(c) "Seller" means any natural or legal person who sells consumer goods in the course of his trade, business or profession;

(c) "Seller" means any natural or legal person who sells consumer goods in the course of his trade, business or profession or supplies them in exchange for another asset in place of the purchase price;

(d) "Guarantee" means any additional undertaking given by a seller or producer, over and above the legal rules governing the sale of consumer goods, to reimburse the price paid, to exchange, repair or handle a product in any way, in the case of non-conformity of the product with the contract.

(d) "Commercial guarantee" means any special undertaking given by a seller or producer to put things right if the goods do not match the characteristics described in the guarantee statement or the relevant advertising.

e) "Manufacturer" means the manufacturers of the goods, the persons importing the goods into Community territory, or any persons purporting to be the manufacturer by putting their name, trade mark or other distinguishing mark on the goods.

f) "Manufacturer's representative" means the natural or legal person who acts as the official distributor or official service provider of the manufacturer, with the exception of independent sellers who operate exclusively as retailers;

3. Contracts for the delivery of goods to be manufactured or produced shall be equated with purchase contracts.

Article 2

Conformity with the contract

- | | |
|--|--|
| 1. Consumer goods must be in conformity with the contract of sale. | Unchanged |
| 2. Goods shall be deemed to be in conformity with the contract if, at the moment of delivery to the consumer: | Unchanged |
| (a) they comply with the description given by the seller and possess the qualities of the goods which the seller has held out to the consumer as a sample or model; | Unchanged |
| (b) they are fit for the purposes for which goods of the same type are normally used; | Unchanged |
| (c) they are fit for any particular purpose for which the consumer requires them and which he had made known to the seller at the time of conclusion of the contract, <u>except where the circumstances show that the buyer did not rely on the seller's explanations;</u> | (c) they are fit for any particular purpose for which the consumer requires them and which he had made known to the seller at the time of conclusion of the contract; |
| (d) their quality and performance are <u>satisfactory given the nature of the goods and the price paid and taking into account the public statements made about them by the seller, the producer or his representative.</u> | d) their quality and performance are <u>such as consumers were entitled to expect, partly on the grounds of the public statements made about the product in advertising or labelling by the seller, the producer or his representative.</u> |
| 3. Any lack of conformity resulting from incorrect installation of the goods shall be considered to be equivalent to lack of conformity of the goods with the contract, if the goods were installed by the seller or under his responsibility. | 3. <u>Goods shall be deemed to be in conformity with the contract as defined in this Article if at the time of purchase the consumer agreed to conclude the contract although aware of the lack of conformity.</u> |
| | 4. Any lack of conformity resulting from incorrect installation of the goods shall be considered to be equivalent to lack of conformity of the goods with the contract, if the goods were installed by the seller or under his responsibility. <u>This shall apply equally if the product is installed by the consumer and the incorrect installation is due to a lack of conformity in the written installation instructions.</u> |

Article 3

Obligations of the seller

1. The seller shall be liable to the consumer for any lack of conformity which exists when the goods are delivered to the consumer and which becomes manifest within a period of two years unless, at the moment of conclusion of the contract of sale, the consumer knew or could not be unaware of the lack of conformity.

1. The seller shall be liable to the consumer for any lack of conformity which exists when the goods are delivered to the consumer and which becomes manifest within a period of two years.

2. When the goods are not in conformity with the public statements made by the producer or his representative, the seller shall not be liable if:

Unchanged

- the seller shows that he did not know and could not reasonably know the statement in question,

- the seller shows that he did not know and could not know the statement in question,

- the seller shows that at the time of sale he corrected the statement, or

Unchanged

- the seller shows that the decision to buy the goods could not have been influenced by the statement.

Unchanged

3. Until proof of the contrary any lack of conformity which becomes manifest within six months of delivery shall be presumed to have existed at the time of delivery, unless this presumption is incompatible with the nature of the goods or the nature of the lack of conformity.

Unchanged

4. When a lack of conformity is notified to the seller, pursuant to Article 4, the consumer shall be entitled to ask the seller either to repair the goods free of charge within a reasonable period, or to replace the goods, when this is possible, or to demand an appropriate price reduction or rescission of the contract. Exercise of the right of rescission or replacement of the good is limited to one year.

Member States may provide that the scope of the rights referred to in the first subparagraph be limited in the case of a minor lack of conformity.

5. When the final seller is liable to the consumer because of a lack of conformity resulting from an act of commission or omission by the producer, a previous seller in the same chain of contracts or any other intermediary, the final seller shall be entitled to pursue remedies against the responsible person, under the conditions laid down by national law.

4. When a lack of conformity is notified to the seller, the seller must without unreasonable delay offer to repair the goods free of charge within a reasonable period, or to replace the goods. The consumer shall have the right to choose either of these claims unless, in view of the particular nature of the case, only one specific claim appears economically appropriate having regard to the seller's interests, and reasonable to the consumer. The consumer need not accept an offer to repair the goods when this results in a reduction in their value; in such a case he may demand a replacement.

If neither of these is possible, or if the lack of conformity is not made good after the attempted repair, the purchaser shall have the right to demand an appropriate reduction of the purchase price or rescission of the contract.

5. The same provisions shall apply to goods supplied by way of replacement as to newly purchased goods.

Where the goods are replaced, the guarantee period pursuant to paragraph 1 shall recommence. Where a defect is remedied, this guarantee period shall recommence in respect of the remedied defect.

6. The seller shall bear any costs incurred, such as for transport, travelling, labour or materials.

7. When the final seller is liable to the consumer because of a lack of conformity resulting from an act of commission or omission by the producer, a previous seller in the same chain of contracts or any other intermediary, the final seller shall be entitled to pursue remedies against the persons liable, under the conditions laid down by national law.

Article 4

Payment by instalments

If the seller and consumer agree to payment by instalments, such payments may be suspended until a lack of contractual conformity is put right.

Article 5

Suspension of periods of liability

Where the consumer notifies the seller of a lack of conformity, the period under Article 3(1) shall be suspended until the seller's obligations are fulfilled. If the consumer has recourse to an existing extrajudicial complaints system in the Member States or takes legal action, the period under Article 3(1) shall likewise be suspended until a decision is taken under the extrajudicial complaints system or a judicial decision is made.

Article 4

Obligations of the consumer

1. In order to benefit from the rights referred to in Article 3 (4) the consumer must notify the seller of any lack of conformity within a period of one month from the date on which he detected the lack of conformity or ought normally to have detected it.

2. Notifications made pursuant to paragraph 1 shall interrupt the limitation period provided for in Article 3 (4).

Deleted

Deleted

Deleted

Article 5

Guarantees

1. Any guarantee offered by a seller or producer shall legally bind the offerer under the conditions laid down in the guarantee document and the associated advertising and must place the beneficiary in a more advantageous position than that resulting from the rules governing the sale of consumer goods set out in the national provisions applicable.

2. The guarantee must feature in a written document which must be freely available for consultation before purchase and must clearly set out the essential particulars necessary for making claims under the guarantee, notably the duration and territorial scope of the guarantee, as well as the name and address of the guarantor.

Article 6

Commercial guarantees

1. Any guarantee offered shall legally bind the offerer under the conditions laid down in the guarantee document and the associated advertising and must place the beneficiary in a more advantageous position than that resulting from the rules governing the sale of consumer goods set out in the national provisions applicable.

2. The guarantee must feature in a written document which must be freely available for consultation before purchase and must clearly set out the essential particulars necessary for making claims under the guarantee, notably the duration and territorial scope of the guarantee, the name and address of the person to be contacted, the procedure to be followed in order to make a claim under the guarantee, as well as the name and address of the guarantor. It must also advise consumers that they have legal rights and that the guarantee does not affect those rights in any way. A guarantee only on specific parts of the product must clearly indicate this limitation, otherwise the limitation shall be invalid.

Article 7

Consumer information

Member States shall provide measures to inform consumers of the national law adopted to transpose this Directive and shall where appropriate ask professional organisations to inform consumers of their rights.

Article 8

In the annex of Directive 98/.../EC of the European Parliament and the Council on actions for restraint to protect the interests

of consumers¹ the following is added : '10)
Directive 98/.../EC on the sale of consumer
goods and associated guarantees' (OJ No L
... of ... 1998, p. ...).

Article 6

Binding nature of the provisions

1. Any contractual terms or agreements concluded with the seller before notification of the lack of conformity which waive or restrict the rights resulting from this Directive shall not be binding on the consumer.

2. Member States shall take the necessary measures to ensure that, irrespective of the law applicable to the contract, and when the contract has a close connection with the territory of the Member States, consumers are not deprived of the protection afforded by this Directive.

Article 7

National law and minimum protection

1. The rights resulting from this Directive shall be exercised without prejudice to other rights which the consumer may rely on under the national rules governing contractual or non-contractual liability.

2. Member States may adopt or maintain in force more stringent provisions, compatible with the Treaty, in the field covered by this Directive, to ensure a higher level of consumer protection.

Article 8

Transposition

1. Member States shall bring into force the laws, regulations and administrative

Article 9

Unchanged.

2. Member States shall take the necessary measures to ensure that consumers are not deprived of the protection afforded by this Directive if the law of a third country has been chosen as the law to be applied to the contract and the contract has a close connection with the territory of the Member States.

Article 10

Unchanged

Unchanged

Article 11

Unchanged

¹ OJ. Nr. ... of 1998, p. ...

provisions necessary to comply with this Directive not later than [two years after its publication in the *Official Journal of the European Communities*]. They shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive, or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive. Unchanged

Article 9

Article 12

Entry into force

This Directive shall enter into force on the 20th day following that of its publication in the Official Journal of the European Communities. Unchanged

Article 10

Article 13

This Directive is addressed to the Member States. Unchanged

Done at Brussels

For the European Parliament

For the Council

The President

The President



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