

Consumers' rights

Work on proposed directive to accelerate in 2011

By Sophie Petitjean | Monday 10 January 2011

The proposal for a directive on **consumer rights** is making a fresh start in 2011, after more than two years of discussions regarding its relevance. On 24 January, the Council should adopt its general approach on the basis of a text drawn up by the Belgian Presidency which Parliament will put to the vote at first reading, on 26 January. As early as 10 January, it will be on the agenda of the first parliamentary committee meeting of the year, with the presentation, in the context of discussions, of an information note on digital content.

Whether an agreement at first reading will be possible, "that will depend on the discussions at Parliament, it will depend on whether Andreas Schwab will have a mandate and whether the agenda will be respected," said the cabinet of the German rapporteur, Andreas Schwab (EPP). "We had very constructive discussions before the Christmas holidays with the shadow rapporteurs and we have good relations with the Council, all the more so that Belgium has integrated a large part of the Schwab report into its text (such as the merger of Chapters 2 and 3)".

WHAT ABOUT DIGITAL CONTENT?

The presentation of an information note on digital content in the Committee on Internal Market and Consumer Protection (IMCO) aims to answer two questions: 1. is digital content a product or service and, according to the response to this question, 2. should it be integrated into the Consumer Rights Directive to cover, for example, consumers who have downloaded a song that cannot be played. While consumers' associations consider digital content to be a product, industry hammers home the fact that it is a service worthy of other rules. The Commission is currently undertaking two studies in order to analyse the relevance of a new text that would incorporate this question.

AT STAKE AT END OF JANUARY

This discussion will support the work of the European Parliament which, on 26 January, will give its opinion on the "targeted" harmonisation of consumer rights. According to this approach, which is supported by the rapporteur, certain measures must be totally harmonised, such as those relating to cross-border online trade, while others may be subject to less stringent harmonisation. This formula thus enables France to maintain its hidden defects clause and Germany to maintain its clause on the hierarchy of remedies.

But the Council's decision, expected on 24 January, could change everything: if it confirms the agreement in principle reached in the Committee of Permanent Representatives (Coreper), on 8 December 2010, the directive will be limited to contracts concluded remotely.

According to rapporteur Schwab, who is not opposed to this approach, discussions within Parliament will nevertheless continue on the basis of the proposal, "even if it means abolishing at the last minute the chapters abandoned by the Council".