

BUSINESSEUROPE



CESL in e-commerce: BUSINESSEUROPE's perspective

ERA Conference

What is BUSINESSEUROPE?



- ✓ The Confederation of European business, representative of more than 20 million small, medium and large companies
- ✓ A Social Partner

Mission

- ✓ “Actively promote and represent business in Europe”
- ✓ “Advocate a favourable and competitive business environment to foster sustainable economic growth”

Purpose

- ✓ Influence EU policies to create a business-friendly environment

Pillars

- ✓ Members FIRST
- ✓ Staff: about 50 persons
- ✓ Supporting network of 57 companies (ASGroup)
- ✓ Alliance for a Competitive European Industry
- ✓ European Employers Network



20 years of single market – our flagship

WORLD'S LARGEST ECONOMY

→ **GDP = €12.6 TRILLION**

ADDING €600 BILLION A YEAR TO EUROPE'S ECONOMY **3 MILLION NEW JOBS CREATED**

2.5 MILLION ERASMUS STUDENTS

MORE COMPETITION

ACCOUNTS FOR 20% OF GLOBAL EXPORTS AND IMPORTS

WIDER CHOICE OF GOODS AND SERVICES

PRICE AIRLINE TICKETS DROPPED BY 40% **6 MILLION PEOPLE WORKING IN ANOTHER MEMBER STATE**

€2,800 BILLION TRADED IN GOODS IN 2011

500 MILLION PEOPLE



Fragmentation in the Internal Market :

Identifying the problem:

Consumer laws differ widely from Member State to Member State resulting from the transposition of minimum harmonisation directives

- difficulties for consumer to ascertain their rights
- costs for companies, in particular for SMEs, which need to be able to apply a mosaic of 27 different consumer protection regimes

Among other well known barriers, legal fragmentation can have a hampering effect in delivering the full benefits of the internal market



Fragmentation in the Internal Market :

The cure?

Consumer Rights Directive provided for further harmonisation in important areas:

- Information requirements
- Distance and off-premises
- Delivery and passing of risk

BUT

Remedies and **unfair clauses** were left out



Rules remedies and unfair clauses

- fundamental importance for businesses
- no solution found during CRD discussions.
- nevertheless, latest CJEU rulings on the Alpenhof (2010) and Müllleitner (2012) cases demonstrate that legal fragmentation is a real concern for companies



CESL: a solution?

- New way of legislating
- A voluntary approach
- To succeed:
 - Substantial simplification and reduction of costs
 - Attractive for businesses and consumers
 - Well-balanced rights and contract stability
 - Usable, understandable and workable
 - Legally tight and certain



CESL: a tool to boost ecommerce?

Business views on different choices:

- Scope: reduced or not?
- Free choice of remedies and absence of right to cure?
- Overly extensive right to terminate
- Absence of duty of notification by consumer
- Prescription periods



CESL: harmonisation directive alternative?

- Defeats the purpose of fighting legal fragmentation
- Threatens re-opening the CRD debate
- Burdening Member states in final phase of transposing the CRD



CESL: replace or waste?



CESL: missing cure?



CESL: Long prescription



CESL: other concerns

- Commencement of the prescription period
- Relevant time for establishing conformity
- Conformity of the goods
- Consistent terminology with acquis



Conclusions

- The creation of an European common set of contract rules to achieve the internal market is an attractive idea, but it needs to be attractive for consumer and traders.
- The success of the proposal mainly relies on its economic appeal for enterprises, which implies:
 - Simplification
 - Legal certainty
 - Stability of contracts



*THANK YOU
FOR YOUR ATTENTION!*

More information can be found at
www.businessseurope.eu

