



JUSTITSMINISTERIET

Ministry of Justice

Annex 2

Date: May 1, 2023

Recommendations regarding the Consumer Rights Directive

The Danish Government has the following recommendations regarding the Consumer Rights Directive (CRD):

Recommendation 1: Subscription contracts

Digitalization has contributed to the development of subscription-based payment models by further reducing transactional frictions and by adding new commercial domains, e.g. streaming services, which have subscriptions built into the core of their services. Subscription-based payment schemes may benefit consumers by lowering transaction costs. However, if consumers are not prompted to take an active position when they pay for their services, these models may also lead to inaction and customer loyalty that is not necessarily aligned with the consumers interests.

A study conducted by the Danish Competition and Consumer Authority on consumer inactivity and inattention on subscription-based markets shows that consumers are 70 pct. more likely to let their subscription terminate if they experience a credit card payment rejection and they manually have to update their payment information to retain the subscription relative to consumers who do not.¹ The study further demonstrates that, in many cases, consumers do not evaluate their subscriptions continuously.

¹ Danish Competition and Consumer Authority (2022): Inactive Consumers in Subscription Markets [inactive-consumers_seneste.pdf \(kfst.dk\)](#). The study consists of two parts – a natural experiment which utilized three years of payment data from 117.000 unique Danish subscriptions and a national representative consumer survey with 1.200 Danish respondents.

Slotsholmsgade 10
DK - 1216 København K.

Phone +45 7226 8400

www.justitsministeriet.dk
jm@jm.dk

If consumers fail to actively decide whether they still find a subscription product or service worth paying for, it will be to the detriment of the consumer. Further, businesses will be less inclined to keep prices low and to innovate and develop new products. Thus, inactive consumers may hamper competition and all the benefits that consumers gain from it.

Increased consumer awareness could be achieved by introducing a requirement for companies to notify consumers prior to payments for subscription products or services. Further, the Commission could look into whether consumers should have access to terminate subscription services in an easier manner.

Recommendation

The Danish Government recommends the Commission to examine whether consumers should be notified on payments for subscriptions and have access to terminate subscription services in an easier manner.

Recommendation 2: Online terms and conditions

Online terms and conditions provide consumers with information on a range of important issues, including privacy- and return policies. Despite their importance, consumers often seem to ignore terms and conditions, mainly because they can be difficult to comprehend and compare across traders.

A study from the Danish Competition and Consumer Authority² demonstrates that terms and conditions which are easy to understand and are presented up-front to the consumer at the time of purchase are far easier for consumers to use. In other words, the most important terms and conditions can be made more salient and the visibility and comparability of terms and conditions can have a significant impact on consumer choice and improve consumers' ability to understand and navigate online commercial domains.

Further, online terms and conditions are often difficult to compare across webshops due to the complexity of the terms and conditions. Enhancing consumers' ability to read, understand and assess terms and conditions will likely spur consumers to more actively choose between products and encourage traders to compete more regularly on providing terms and conditions to the benefit of the consumer.

² [Danish Competition and Consumer Authority \(2018\) "Improving the Effectiveness of Terms and Conditions in Online Trade."](#)

The Danish Government therefore encourages the Commission to look further into the legal framework for terms and conditions. The Commission is especially encouraged to look into how to make terms and conditions that are most important for consumer choices more salient and visible at the time of purchase. This could for instance be achieved by requiring a standardized format to allow consumers to easily assess terms and conditions when the consumers first encounter the product.

Recommendation

The Danish Government recommends the Commission to evaluate whether the legal framework for online terms and conditions can be revised to improve the comprehensibility, visibility and comparability of online terms and conditions.