

The Consumer Voice in Europe

PUBLIC CONSULTATION ON THE DIRECTIVE ON DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES

BEUC response



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Why it matters to consumers

With the spread of digitalisation, which has been accelerated by the Covid-19 crisis, the sale and marketing of financial service products, such as consumer credit, insurances, or payment accounts, is increasingly moving online. This creates new opportunities, but also substantial risks for consumers, who may be mis-sold overly complex or costly products that they do not always need. At the same time, traditional distance-marketing techniques such as cold calling, are still used to lure the most vulnerable consumers, such as the elderly, into purchasing complex or costly financial service products. In that context, it is crucial for EU legislation to adequately protect consumers when they purchase financial services at a distance, regardless of the means of communication used.

Summary

- The Distance Marketing of Financial Services Directive (“DMFSD”) provides a legal framework governing the **distance marketing of financial services**. It has increased the protection of consumers purchasing financial services at a distance by laying down rules on (i) the information that consumers must receive before concluding a contract (ii) introducing a 14-day right of withdrawal (iii) and by regulating unsolicited distance sales and communications.
- Since the entry into force of the DMFSD (2002), horizontal and product-specific legislation has been implemented (for example, the Insurance Distribution Directive, or the Consumer Credit Directive). However, the DMFSD is **still relevant** to protect consumers when it comes to aspects not covered by product-specific legislation and for new products which constantly come into the market.
- Indeed, digitalisation means that new financial products come into the market at an increased pace and are increasingly offered online (recent examples include peer-to-peer lending, increased online offers of short-term high-cost loans also called “payday” loans, and buy-now-pay-later schemes such as Klarna). At the same time, the number of physical bank branches is steadily decreasing.
- It is therefore important for consumers to be **duly protected** whenever new financial products and technologies are launched into the market, and when they purchase financial products at a distance (e.g. online or on the phone) which are not, or not entirely covered by product-specific legislation.
- In particular, the receipt of relevant **pre-contractual information** by consumers before purchasing such products, including information on costs and on the right of withdrawal, is crucial in order to enable consumers to make an informed choice. It also prevents consumers from purchasing predatory products which they do not need, or which comprise hidden costs, such as certain payday loans offered online, or insurance products offered via the phone. The existence of a **right of withdrawal** is also crucial in order to enable consumers to change their minds, in particular when they are mis-sold a product which does not suit their needs.

- While there are both compliance and enforcement problems related to the application of the DMFSD, these problems should urgently be solved by **revising the Directive** and strengthening the safeguards which it comprises, in order to ensure a high level of consumer protection in the face of the increased digitalisation of the financial services sector. As an alternative, the rights contained in the DMFSD could be duly integrated into other European legislation (such as the Consumer Rights Directive) as long as they are equally **updated and safeguarded**.
- As such, the Directive should be updated to:
 - include more precise rules on **the form, prominence and timing** of information disclosure;
 - ensure that the procedure to exercise the right of withdrawal is **simple and straightforward** for consumers;
 - include a **ban** on all unsolicited sales, including via practices used to induce consumer consent such as pre-ticked boxes;
 - to subject all unsolicited communications related to financial services to an **“opt in” rule, without exceptions**, given the important impact that the purchase of financial service products can have on a consumer’s life.
- The revised Directive should also include additional safeguards. For example, **comparison tools** should be strictly regulated to make sure that they are truly objective and independent and **pre-ticked boxes** should be prohibited.
- Finally, **enforcement capabilities** of national authorities should be strengthened, ensuring that they have sufficient power and resources available, and coordination of the various authorities in charge of enforcing the DMFSD should be enhanced.
- Finally, any inconsistencies and overlaps with horizontal and product specific legislations, giving rise to legal uncertainty, should be **clarified**.

Technical questions on the specific value added of the provisions of the Directive compared to other legal acts

Question 1: Considering the overlap with sector specific legislation, based on your experience, how often are the articles on pre-contractual information stemming from the Directive applied or enforced with regard to the following financial services?

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)				
Mortgages				
Insurance Products (e.g. car, home insurance, etc.)				
Payment accounts				
Investment products (e.g. shares, bonds or funds)				
Payment services (such as money transfer services)				
Personal pension products				

Please explain how the articles on pre-contractual information stemming from the Directive are still applied or enforced, providing the situation when it was applied or enforced:

As a preliminary remark, please note that the above table does not distinguish between, on the one hand, the application of the Distance Marketing of Financial Services Directive (DMFSD) by financial service providers, and on the other hand, its enforcement, which are two aspects which should be examined separately.

In addition, it is difficult for BEUC or its members to evaluate the frequency at which articles on pre-contractual information contained in the Directive are applied in practice. The [Evaluation Report](#) mentions “persistent issues in enforcing the DMFSD”, which means that consumers may not be aware of their rights (in particular when information requirements are not complied with) and whether these are breached and may therefore not bring forward complaints. In cases where pre-contractual information is in fact being provided, BEUC member organisations would not receive complaints and cannot therefore be aware of the frequency of application of such articles. Finally, when complaints are received, specific data related to distance contracts is rarely available, as there is often no clear distinction in national legislation between provisions which stem from the transposition of the DMFSD and those which stem from the transposition of product-specific Directives.

There appear to be general issues with the application of pre-contractual information requirements related to financial services. The [Evaluation Report](#) mentions that national authorities regularly receive complaints about non-exhaustive pre-contractual information. This is also reflected in BEUC’s [position paper](#) on the review of the Consumer Credit

Directive, which mentions for example [a study](#) by the French DGCCRF finding gaps in the pre-contractual information provided by lenders when offering consumer credit products.

As mentioned in the [Evaluation Report](#), the DMFSD articles on pre-contractual information should in principle apply as regards the following products or services currently not covered by product-specific legislation, when contracted at a distance: consumer credit below EUR 200 and above EUR 75,000, savings accounts and personal pensions. In addition, the need to provide information on the existence of a right of withdrawal also applies to payment accounts, insurances, and certain mortgages. In all these cases, the receipt of relevant pre-contractual information by consumers before purchasing such products at a distance (e.g. online or on the phone), including information on costs and on the right of withdrawal, is crucial in order to enable consumers to make an informed choice. It also prevents consumers from purchasing predatory products which they do not need, or which comprise hidden costs, such as certain payday loans offered online, or insurance products offered via the phone. The right to pre-contractual information contained in the DMFSD will be even more important in the future as financial institutions and new players such as Fintechs and Bigtechs are increasingly offering products online, with physical bank branches closing at an increased pace in the face of the Covid-crisis and the overwhelming digitalisation of the financial services market.

In order to ensure that the provisions on pre-contractual information are applied in practice, enforcement of the articles stemming from the Directive is crucial. Examples of actions taken by BEUC members include an action [recently](#) introduced by UFC-Que Choisir in France against high cost short term credit products (also called “payday loans”), targeting the most vulnerable categories of consumers. UFC Que Choisir found that consumers do not receive adequate information, as the pricing of such products is particularly opaque and dissimulates interest rates which can be up to 100 times above the maximum rate authorised in France (usury rate). BEUC French member UFC-Que Choisir also [denounced](#) fraudulent life or health insurance products which are sold over the phone without the consumer being informed of his or her right of withdrawal. In that context, insurance company Santiane was [condemned](#) by the French regulator in 2016 for not providing relevant pre-contractual information to consumers when selling insurance contracts over the phone, including on their right of withdrawal. A recent law was [introduced](#) in France which now prohibits the immediate conclusion of insurance contracts over the phone and ensures the consent and receipt of pre-contractual information by the consumer.

Finally, it is important to note that any uncertainty around the actual application of pre-contractual information articles in the DMFSD as well as a low level of enforcement does not mean that the rights contained in the Directive are irrelevant from a consumer protection perspective. It simply means that these rights are not properly enforced, and that additional measures should be taken in order to ensure that consumers are adequately protected and informed as required by the Directive, whenever product-specific legislation does not apply. As noted further below, rights to pre-contractual information should be adapted to the increased digitalisation of the sector, strengthened, and duly enforced.

Question 2. Considering the overlap with sector specific legislation, based on your experience, how often are the articles on the right of withdrawal stemming from the Directive applied or enforced with regard to the following financial services?

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)				
Mortgages				
Insurance Products (e.g. car, home insurance, etc.)				
Payment accounts				
Investment products (e.g. shares, bonds or funds)				
Payment services (such as money transfer services)				
Personal pension products				

Please explain how the right of withdrawal stemming from the Directive is still applied or enforced, providing the situation when it was applied or enforced:

See our answer above.

Concerning the application of the articles on the right of withdrawal stemming from the Directive, as mentioned in the [Evaluation Report](#), such articles should in principle apply as regards the following products or services currently not covered by product-specific legislation, when contracted at a distance: consumer credit below EUR 200 and above EUR 75,000, savings accounts, personal pensions, payment accounts, insurances, and certain mortgages. In all these cases, the existence of a right of withdrawal when purchasing such products at a distance (e.g. online or on the phone) is crucial in order to enable consumers to change their minds, in particular when they are mis-sold a product which does not suit their needs. The [Evaluation Report](#) finds for example, that national authorities often receive complaints about the unsuitability of the financial product/service that the consumer needed as well as hidden fees. In that respect, see for example UFC-Que Choisir [denouncing](#) fraudulent life or health insurance products sold to consumers over the phone. In addition, products such as insurance, payment accounts or consumer credit are increasingly sold online, where opaque and complex products can be purchased at an increased pace by consumers. As noted by the [Evaluation Report](#), financial service providers often exploit behavioural biases of consumers online, an environment where they are particularly vulnerable. In these situations, the right of withdrawal is extremely important in order to ensure that consumers are duly protected from unsuitable or overly expensive products, as well as hidden charges.

Regarding the frequency of application of the DMFSD's right of withdrawal, the [Evaluation Report](#) found that a large majority of consumer associations consulted reported to have received complaints from consumers concerning their right of withdrawal, suggesting compliance issues by financial service providers. Most complaints concerned the lack of

consumer information of this right, the refusal by the provider to accept the withdrawal and bureaucratic difficulties faced by consumers while exercising their right. As noted above, the [Evaluation Report](#) also found issues with enforcement.

The DMFSD should therefore be revised to ensure that the procedure to exercise the right of withdrawal is simple and straightforward for consumers, that consumers are duly informed about such procedure, and that a template withdrawal form is provided to them at the moment of signing the contract as well as an acknowledgement of receipt once the form is received by the financial service provider. Issues with enforcement should also be resolved in order to ensure that this right is fully effective when product-specific legislation does not apply.

Question 3. Considering the overlap with sector specific legislation, based on your experience, how often is the article on unsolicited services of the Directive applied or enforced with regard to the following financial services?

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)				
Mortgages				
Insurance Products (e.g. car, home insurance, etc.)				
Payment accounts				
Investment products (e.g. shares, bonds or funds)				
Payment services (such as money transfer services)				
Personal pension products				

Please explain how the article on unsolicited services stemming from the Directive is still applied or enforced, providing the situation when it was applied or enforced:

See answer to Q.1. above.

The Unfair Commercial Practices Directive (2005) added a ban on inertia selling into Article 9 of the DMFSD. The [Evaluation Report](#) mentions a high level of compliance with provisions on unsolicited services, which imply that they are regularly applied.

Regardless of how often the article on unsolicited services is applied or enforced, this article is not in itself sufficient to adequately protect consumers in the digital era. As noted in the [Evaluation Report](#), consumer consent in the digital space can be obtained by default, for example via the use of **pre-ticked boxes**. Pre-ticked boxes often result in consumers purchasing financial services products that they may not need, or that may not be the most suitable for them. For instance, in 2018, the French consumer protection and

competition authority DGCCRF [carried](#) out a mystery shopping exercise which found that the option to buy a payment protection insurance policy was pre-ticked by most credit sellers. In 2014, the UK Financial Conduct Authority (FCA) [banned](#) pre-ticked boxes for the sale of add-on insurance products because of the negative impact they have on consumer behaviour and outcomes (i.e. consumers were often more likely to buy inappropriate or unsuitable products, did not think whether they needed them, and the products often offered very poor value for money).

Consumers should be required to take an active and informed decision whether they need or want an add-on product that is being offered to them. The Consumer Rights Directive already prohibits the pre-ticking of boxes, but does not, for the moment, apply to financial services. BEUC supports EBA's [recommendation](#) to **prohibit the use of pre-ticked boxes under the revised DMFSD** (or under the revised Consumer Rights Directive if financial services are integrated in the Directive – see our response to question 7 below).

In addition, Article 9 excludes from its scope the tacit renewal of distance contracts. In BEUC's view, all unsolicited offers or sales of financial services should be banned in the revised Directive, including instances of tacit renewal of such contracts.

Question 4. Considering the overlap with sector specific legislation, based on your experience, how often is the article on unsolicited communication of the Directive applied or enforced with regard to the following financial services?

	On a daily basis	Often	Rarely	Never
Consumer credits (including credit cards)				
Mortgages				
Insurance Products (e.g. car, home insurance, etc.)				
Payment accounts				
Investment products (e.g. shares, bonds or funds)				
Payment services (such as money transfer services)				
Personal pension products				

Please explain how the article on unsolicited communication established by the Directive is still applied or enforced, providing the situation when it was applied or enforced:

See answer to Q.1. above.

BEUC does not have specific information on the frequency at which the DMFSD's article on unsolicited communications is applied or enforced. However, the article on unsolicited communications contained in the DMFSD is not in line with the ePrivacy Directive, which

provides that unsolicited communications are subject to **opt-in** as a general rule (the DMFSD allows Member States to choose between opt-in and opt-out for means other than automated calling and fax machines). As such, the DMFSD should be amended in order to provide for a **general opt-in rule** when it comes to unsolicited communications related to the sale of financial services.

However, the ePrivacy Directive contains a number of loopholes and **exceptions which should not apply** to financial services given their sensitive nature and the major impact that a financial service contract (e.g. a credit or insurance contract) can have on a consumer's life. These exceptions include existing customer relationships, the marketing of similar products and services, and marketing calls where, under the ePrivacy Directive, Member States can establish an opt out system. The reference to "fax machines" should also be removed as it is outdated.

Question 5a. How useful is the 'safety net' feature of the Directive (i.e. the application of the Directive in those instances when new products appear on the market and are not yet subject to specific regulation and when the product specific legislation does not cover, or does not cover sufficiently, the rules established by the Directive) for the following financial services?

	Very useful	Useful	Not useful	Irrelevant
Consumer credits (including credit cards)		X		
Mortgages		X		
Insurance Products (e.g. car, home insurance, etc.)		X		
Payment accounts		X		
Investment products (e.g. shares, bonds or funds)		X		
Payment services (such as money transfer services)		X		
Personal pension products		X		

Please explain

Digitalisation means that new financial products come into the market at an increased pace and are increasingly offered online. Recent examples of new products not covered by product specific legislation include peer-to-peer lending, increased online offers of payday loans, and buy-now-pay-later schemes such as Klarna. In all these cases, the rights contained in the DMFSD are fully relevant (pre-contractual information and right of withdrawal), and the DMFSD should in principle act as a "safety net" for these new products, ensuring a uniform, high level of protection for consumers across the EU. As noted above however, there are both compliance and enforcement problems related to the application of the DMFSD. These problems should urgently be solved by revising the Directive and strengthening the safeguards which it comprises in order to ensure that consumers are duly protected.

As financial products are increasingly being sold online, and the number of physical bank branches is steadily decreasing, consumers should be duly protected whenever new products and technologies are launched into the market, which are not yet covered by product-specific legislation.

Question 5b. Can you provide concrete examples when you applied the rules of the Directive since they went beyond the rules covered by specific financial services legislation (e.g. the right of withdrawal for payment accounts contracted at a distance)?

See answers to questions 1 and 2 above.

Question 5c. Can you provide concrete examples when you applied the rules of the Directive for products which are exempt from the product specific legislation (e.g. payday loans, which are a type of credit agreement, contracted at a distance and are below EUR 200)?

See answers to questions 1, 2 and 5a above.

Question 5d. Can you provide concrete examples when you applied the rules of the Directive for new products that appeared on the market before product-specific legislation was enacted (e.g. virtual currencies bought at a distance)?

See answers to question 5a above.

Question 6. Has the application and enforcement of the articles of the Directive progressively diminished due to the entry into application of subsequent product or horizontal legislation?

- Yes
- No
- **Don't know**

Please Explain

As noted above, the Directive remains relevant for products or aspects not covered by product-specific legislation, and for future products which will increasingly be sold online by financial service providers.

Question 7. Would the repeal of the Directive lead to:

	Yes	No	Don't know
Regulatory gaps leading to an unlevel playing field (e.g. undue competitive advantage for financial providers in Member States that would provide a less protective framework)	X		
Lower consumer protection in those areas which are not as yet covered by product specific or horizontal legislation (e.g. pre-contractual information for consumer loans below EUR 200)	X		
Increased difficulties for cross-border trade	X		
A reduction of administrative burdens for Member States (e.g. reduction of costs for supervision of the obligations stemming from the Directive)			X
A reduction of regulatory costs for financial service providers (e.g. less compliance costs related to pre-contractual information obligations stemming from the Directive)			X
None of the above since in practice the Directive scope of application has lost most of its relevance		X	

Please explain

The DMFSD ensures a uniform, high level of protection for consumers across the EU. The repeal of the Directive will lead to a diminished level of consumer protection in areas not covered by product-specific legislation and for any future products. As noted in the [Evaluation Report](#), it could also lead to different levels of protection depending on

the type of financial service used and reduce the existing level playing field, making cross-border trade more complex. Without the DMFSD, uncertainty and legal confusion could increase. It could also lead to a more fragmented approach at national level.

This is why BEUC is in favour of maintaining, but revising the Directive, in order to ensure a high level of consumer protection in the face of the increased digitalisation of the financial services sector. As an alternative, the rights contained in the DMFSD could be duly integrated into other European legislation as long as they are equally updated and safeguarded (see below).

First of all, in light of increasing digitalisation, existing rights in the DMFSD need to be updated and improved:

Pre-contractual information (article 3)

The [Evaluation Report](#) includes many examples of industry misleading and unfair practices related to what information is presented to consumers at pre-contractual stages, including (i) emphasising benefits, while costs of financial services products are hidden (ii) key information missing or difficult to find (iii) pre-contractual information located in places that can be overlooked.

BEUC therefore supports EBA's [Opinion](#) on digital disclosure to consumers of banking services, which advocates for **more precise rules on the form, prominence and timing** of information disclosure. Information needs to be key (e.g. *on fees and charges, on the consequences of default*), concise, drafted in plain and intelligible language, and clear and understandable. The information should be easily accessible and downloadable and adapted to the device. Its effectiveness should be tested/ monitored. Information overload should be avoided and the information should enable comparison between products/services. In this respect, the revised Directive should mandate the EBA to issue Regulatory Technical Standards (RTS) on the format and presentation of the information.

In addition, the following **definitions** in the DMFSD should **be clarified**:

- The requirement under Article 3(1) DMFSD for the information to be provided "in good time" should be specified (at least 24 hours before the signature of the contract). Pre-contractual information should also be provided by default on the provider's website (e.g. PRIIPs or UCITS KIDs).
- The definition of "durable medium" should be amended and aligned with technological developments by looking at good practices across the EU (e.g. a "CD-ROM" may no longer be viable for consumers who do not own a reading device).

The DMFSD should regulate pre-contractual information and **advertising separately**, making sure that the promotional nature of the communication is clear, that information about risks is presented prominently.

Right of withdrawal (article 6)

The right of withdrawal is very important for consumers when it comes to financial contracts, especially online, where decisions are made very quickly. The DMFSD should ensure that the procedure to exercise the right of withdrawal is **simple and straightforward** for consumers. The consumer should be clearly informed about the procedure and provided the relevant withdrawal form when signing the contract as well as an acknowledgment of receipt when sending the form.

The Commission should consider whether a **mandatory reflection period** before signing the contract (i.e. an opt-in approach) would be more effective in protecting consumers from quick and ill-informed decisions.

Ban on unsolicited services (article 9) and communications (article 10)

All **unsolicited sales should be banned**, including via practices used to induce consumer consent such as pre-ticked boxes (see below). The ban on unsolicited services should also include the tacit renewal of distance contracts.

In addition, **unsolicited communications should be forbidden**, in line with the ePrivacy Directive which provides that unsolicited communications are subject to opt-in as a general rule (the DMFSD allows Member States to choose between opt-in and opt-out for means other than automated calling and fax machines). The reference to “fax machines” should also be removed and adapted to technological developments (or be formulated in a technology-neutral way).

Enforcement

As noted in the [Evaluation Study](#), there are **clear issues with enforcement** of the DMFSD’s provisions. For example, pre-contractual information, including on the consumer’s right of withdrawal, is sometimes not provided at all, or is provided in a way which is unclear to the consumer. The Study also notes substantial differences between Member States in enforcement effectiveness and in the resources available.

As such, it is very important to enhance the **cooperation and coordination** of the various authorities in charge of enforcing the DMFSD. The Directive should also contain provisions ensuring that the national authorities in charge of enforcing it have **sufficient powers and resources** available.

Additional safeguards should also be added in the revised DMFSD, including:

Comparison tools

Consumers increasingly rely on **comparison websites** to get a market overview of the best offers and conditions when choosing financial services products. In theory, comparison websites should be a useful tool to help consumers identify the most suitable product for them. However, in practice, comparison websites in financial services often adopt practices that **mislead consumers**. For instance, in 2017, BEUC German member VZBV published a [study](#) examining the five most widely used comparison tools in financial services. The study found that while most comparison portals give the impression to explicitly serve the consumer interest, most portals do not allow for a comprehensive or objective comparison of products available on the market (many do not give adequate information on whether they compare the entire market; how they rank the products; and how their portals are financed, and comparison websites often give more favourable rankings to advertised offers or to companies offering higher commissions to the website).

Comparison tools should be strictly regulated under the DMFSD to ensure that they are truly **objective and independent**. Comparison tools that do not meet these requirements would need to identify themselves clearly as financial product brokers or sellers.

Ban on pre-ticked boxes

Financial services providers frequently recommend 'add-on' products or services when consumers take out a financial services product through '**pre-ticked boxes**'. For instance, in 2018, the French consumer protection and competition authority DGCCRF [carried](#) out a mystery shopping exercise which found that the option to buy a payment protection insurance policy was pre-ticked by most credit sellers.

Pre-ticked boxes often result in consumers purchasing financial services products that they may **not need**, or that may **not be the most suitable** for them. In 2014, the UK Financial Conduct Authority (FCA) [banned](#) pre-ticked boxes for the sale of add-on insurance products because of the negative impact they have on consumer behaviour and outcomes (i.e. consumers were often more likely to buy inappropriate or unsuitable products, did not think whether they needed them, and the products often offered very poor value for money).

Consumers should be required to take an active and informed decision whether they need or want an add-on product that is being offered to them. The Consumer Rights Directive already prohibits the pre-ticking of boxes, but does not apply to financial services. BEUC supports EBA's [recommendation](#) to **prohibit the use of pre-ticked boxes** under the revised DMFSD.

Overlaps

There are some inconsistencies and overlaps with horizontal and product specific legislations (e.g. article 8 related to payment fraud is obsolete as this is covered by PSD 2), leading to **legal uncertainty**. These should be clarified and rules should be introduced on which provisions prevail and when. The revised Directive should be aligned with more stringent provisions currently present in product-specific legislation (e.g. standardised format of the information).

Possible transfer of DMFSD provisions into the Consumer Rights Directive (CRD)

As an alternative to the revision of the DMFSD, the [Inception Impact Assessment](#) mentions the possible transfer of rights contained in the DMFSD into the Consumer Rights Directive (CRD). BEUC would also support such solution as long as it does not lead to a reduction of rights for consumers purchasing financial service products at a distance. In addition to the above necessary changes, this means that the CRD would need to be amended to include more protective provisions currently contained in the DMFSD, such as the need for suppliers to actively communicate pre-contractual information to the consumer (and not merely make it "available"), the possibility for Member States to introduce more stringent pre-contractual requirements (i.e. maintain the minimum harmonisation character of these pre-contractual information requirements), the extension of the right of withdrawal to 30 days in specific cases (life insurance and personal pensions), as well as specific provisions on judicial, administrative and out of court redress.

Question 8. The Directive bans unsolicited services and communications from suppliers when such services or communications lack the consumer's consent. However, over time, through the introduction of product specific and horizontal specific legislation, in particular Directive 2002/58/EC (e-Privacy), Directive 2005/29/EC (unfair business-to-consumer practices) and Regulation (EU) 2016/679 (General Data Protection Regulation), the bans established by the Directive have lost their relevance. Should the revision of the Directive lead to the repeal of the current articles (Articles 9 & 10) concerning unsolicited supplies and unsolicited communications?

- Yes
- **No**
- Don't know

Please explain

See our responses to questions 3 and 4.

Article 10 on unsolicited communications, which is covered by the e-privacy Directive, should be amended with an "opt-in" as a general rule for financial services, without the current exceptions contained in the e-privacy Directive.

As noted by BEUC's Spanish member Asufin, the fact that the DMFSD clarifies how certain rights contained in horizontal legislation should apply to the distance marketing of financial services more specifically, has important added value for the protection of consumers purchasing such products at a distance, also bearing in mind the significant impact that such products can have on a consumer's life. If the DMFSD were to be repealed, regulatory loopholes would emerge.

Article 9 on unsolicited services should be expanded in order to include a ban on the use of pre-ticked boxes and possibly, other online tools used to infer consumer consent.



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