

Right of withdrawal waiver

Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights¹ establishes rules on information to be provided for distance contracts, off-premises contracts and contracts other than distance and off-premises contracts. This Directive also regulates the right of withdrawal for distance and off-premises contracts and harmonizes certain provisions dealing with the performance and some other aspects of business-to-consumer contracts.

Article 2 of the Directive defines the following terms:

Consumer: any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession.

Digital content: data which are produced and supplied in digital form

Distance contract: any contract concluded between the trader and the consumer under an organized distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded

Right of withdrawal: Save where the exceptions provided for in Article 16 of the Directive apply, the consumer shall have a period of 14 days to withdraw from a distance or off-premises contract, without giving any reason, and without incurring any costs other than those provided for in Article 13(2) and Article 14 of the Directive.

Sales contract: any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services

Trader: any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Directive

The Directive applies, under the conditions and to the extent set out in its provisions, to any contract concluded between a trader and a consumer.

Article 16 of the Directive provides that the right of withdrawal is exempted in respect of distance and off-premises contracts with regards to the supply of digital content that is not supplied on a tangible medium if the performance has begun with the consumer's prior express consent and his acknowledgment that he thereby loses his right of withdrawal. A right of withdrawal could be inappropriate for example given the nature of particular goods or services.

¹ This directive amends Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repeals Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

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