



A Fair Circular Economy For Consumers: How to Inform, Empower, And Protect Citizens

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Circular Economy Action Plan 2015 (p. 6)

“The choices made by millions of consumers can support or hamper the circular economy. These choices are shaped by the information to which consumers have access, the range and prices of existing products, and the regulatory framework.”

How to stimulate sustainable consumption ?

- in a context of “**information overload**” (e.g. proliferation of (voluntary) “product sustainability” information)
- in a context of **incremental “servitization”** (emergence of new business models based on use rather than transfer of ownership)
- in a context of a “**linear regulatory framework**” (largely focused on linear business models and related, unsustainable consumption patterns)

Gaps and opportunities in EU law to further promote sustainable consumption

- Production stage:
 - eco-design: fostering durability and repairability criteria, extended guarantee, availability of spare parts, ...
- Marketing stage:
 - increasing enforcement of prohibition of misleading claims / eco-labels
 - fine-tuning mandatory information requirements (durability, repairability, availability of spare parts)
- Contractual stage:
 - reconsidering right of withdrawal in certain situations (cf. externalities) ?
 - revising the hierarchy of remedies in case of non-conformity ↔ free choice for replacement over repair (with disproportionality as backstop) in CSD
 - re-considering full harmonisation of 2-y legal guarantee in new CSD
 - facilitating repair by consumer or independent repairer

‘Servitization’ and sustainability

- Shift from selling products to selling “products-as-a-service” + shift from buying to using products
- E.g. “user-oriented” product-service systems (“PSS”):
 - are on the rise, also in b2c markets:
 - household appliances: Bundles, Blue Movement
 - fashion: MudJeans, RentTheRunWay
 - furniture: IKEA?
 - cars: Volvo Polestar 1 and 2
 - ...
 - create opportunities for firms, users and the environment
 - are not *per se* more “eco-friendly” than the classic sale of products *jo.* post-consumption waste management

EU consumer law is not (entirely) fit for the 'servitization' trend

- Right now, new PSS contracts remain largely, if not entirely, subject to national default law and contractual freedom:
 1. marketing stage: lack of transparency (total cost, main characteristics) of long-term + complex PSS offers
 2. contractual stage: uncertainty about contractual rights and liabilities:
 - qualification (renting, hiring, leasing, ...);
 - performance;
 - non-conformity of services;
 - other forms of breach of contract; ...
 3. *difficulties with termination of PSS contracts*
 4. *problems in case of insolvency of the PSS supplier or insolvency of the user*

Thank you!

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