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European Union: European Consumer Protection Updates And The ODR Platform

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by [Margherita Barletta](#) and [Nicolò Ghibellini](#)

Marazzi & Associati

In the context of the European Union, talk of consumer protection is nothing new. In fact, there are already four directives specific to the subject:

1. 2005/29 / EC (relating to unfair commercial practices between businesses and consumers);
2. 2011/83 / EU (consumer directive);
- 93/13 / EEC (unfair terms);
1. 98/6 / EC (price indication).

Today, digital market, has become as relevant as the traditional one and the European consumer needs a protection by law that is harmonized in all Member States.

For this purpose, the European Parliament and the Council have reached an agreement on the text of the Consumer Directive 2019, which will affect the old rules, updating and modifying them (Document PE-Cons 83/19).

Interesting is the new article 6bis, which will be included in the above-mentioned Directive, concerning specific additional information requirements for contracts concluded on online marketplaces.

In fact, before a consumer is bound by a distance contract, or by a corresponding offer on an online marketplace, the supplier of the online marketplace must also indicate to the consumer, in a clear and comprehensible manner the following items:

1. general information, made available in a specific section of the online interface that is directly and easily accessible from the page where offers are presented to the consumer as a result of their search;
2. whether the third-party offering goods, services or digital content is a professional or not, on the basis of the third party's declaration to online marketplace provider;
3. in the event that the third party offering the goods, services or digital content is not a professional, that the rights of consumers deriving from Union law on consumer protection do not apply to the contract;
4. if applicable, the way in which the obligations relating to the contract are shared between the third party offering the goods, services or digital content and the provider of the online marketplace. This information is without prejudice to the liability that the online marketplace provider or third-party trader has in relation to the contract under other Union or national law rules.

The second paragraph, of the same article, also provides that Member States will be able to impose further information obligations on suppliers of online marketplaces. These provisions must be proportionate, non-discriminatory and justified on grounds of consumer protection. "

Article 5 of the Document PE- Cons provides for the guarantee, by the Commission, in favor of the European consumer, of an online access point to the single digital desk, established by EU Reg. 2018/1724, where it is possible to lodge a complaint through the platform European Union for Online Dispute Resolution (ODR platform), and the European Consumer Center.

The ODR Platform must be used to settle disputes with businesses out of court deriving from purchases of goods and services made online or through online marketplaces.

Consumers can connect to the ODR telematic platform, managed by the European Commission, reachable at the following address: <https://webgate.ec.europa.eu/odr>.

Once connected, they can choose the body to contact to resolve the dispute and activate the relevant procedure; It should also be noted that EU Regulation 524/2013 obliges all those who sell goods and services online and are based in Europe to include the following items on their website:

- a link to the European Union web platform for alternative online dispute resolution (ODR).
- the e-mail address, which will be used by the consumer to submit the complaint via the platform.

The ODR ("online dispute resolution") is a process that allows consumers residing in the European Union to submit their complaints. Through the platform, therefore, the seller will be contacted and, if the seller agrees, he will be put in communication with the consumer and with a body that will be in charge of finding a solution to the dispute within 90 days of submitting the complaint.

The obligation to publish the link to the ODR platform ("Online Dispute Resolution") of the European Union had already been provided for by article 14 of the EU Regulation no. 524/2013: *-Professionals established in the Union who operate through sales contracts or online services and online markets established in the Union, provide an electronic link to the ODR platform on their websites. This link must be easily accessible to consumers. Professionals established in the Union operating through sales contracts or online services also indicate their e-mail addresses. -*

Therefore, every owner of a website that sells products or services online in Europe, must include a text explaining the possibility of using the Online Dispute Resolution service indicating the link to the ODR platform and this link must be easily accessible.

This procedure is not mandatory, but it is an alternative to the traditional judicial procedure; the consumer can decide whether to activate this procedure or to follow traditional legal proceedings. Furthermore, the seller is not required to adhere to this alternative procedure.

It is very important to remember that EU Regulation No. 524/2013 provides that Member States shall establish the sanctioning discipline applicable in case of violation of the Regulation and take all necessary measures to ensure its application. The penalties provided must be effective, proportionate, and dissuasive.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

AUTHOR(S)



Margherita Barletta
Marazzi & Associati



Nicolò Ghibellini
Marazzi & Associati



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