



The Consumer Voice in Europe

# Consumer protection in the platform economy

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## Consumers embrace the platform economy...

... But statistics and experience shows many problems exist, for example:

- Anticompetitive practices
- Lack of transparency
- Legal uncertainty
- Widespread use of unfair terms
- No respect for data protection obligations

**55%** of consumers experienced **at least one problem** over the past year

Source: DG JUSTICE, Peer-to-peer platform markets Study, 2017



## Many rules already in place

- E-Commerce Directive
- Unfair Commercial Practices Directive
- Unfair Contract Terms Directive
- Consumer Rights Directive
- General Data Protection Regulation
- ...
- Network Information Security Directive
- Payment Services Directive 2
- Information Society Directive
- General Product Safety Directive
- ...

The first challenge is the **enforcement** of these rules

The second challenge is to **update** and **complement** some of these rules

# New Consumer Deal

## What's good

New Art 6a Consumer Rights Directive (information duties)






- ✓ Transparency about parameters of ranking (without disclosing algorithm!)
- ✓ Whether third party is trader or not (self-declaration)
- ✓ Whether consumer law applies or not (without details)
- ✓ Which trader is responsible to guarantee application of consumer law

New Item 11: Annex of Unfair Commercial Practices Directive

- ✓ Platform has to disclose if search results are based on payment, otherwise it is an unfair practice

# New Consumer Deal

## What's missing

-  Additional transparency about the use and functioning of algorithms, particularly regarding personalized offers
-  Standard remedies in case of non-compliance, eg: right to terminate
-  Rules on liability of platforms, particularly when predominant influence/control over own marketplace
-  Disclosure of any dynamic and personalized pricing techniques used
-  Mechanisms in place to take down fake reviews and transparency obligation about how authenticity is (or not) verified

## New Consumer Deal Vs P2B

Suppliers that operate through online platform get higher levels of protection than consumers on some issues... why?

- Disclose the relative importance of ranking parameters
- Remuneration vs payment
- Effects of remuneration on ranking
- Better transparency overall

# Preliminary thoughts on P2B proposal

- Scope: Online Intermediary Services and Online Search Engines
  - ❓ Requires contractual relationship with consumer through platform?
  - ❓ Only applies to General T&Cs advertised, not individually negotiated
- Minimalist intervention: provisions limited to transparency
  - ❓ How effective will they be to change market practices? Is information alone enough for small, innovative players?
- Some ideas to strengthen the proposal
  - Article 6: Vertically integrated services should not be the default
  - Article 7: Incorporate specific measures to address entry barriers linked to access to data (data as an input)
  - Article 8: EU-wide ban on wide parity clauses

**More details soon!**



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Thank you for your attention

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