



THE SENATE  
OF THE PARLIAMENT OF THE CZECH REPUBLIC  
11<sup>TH</sup> TERM

**493<sup>th</sup>**

**RESOLUTION OF THE SENATE**

Delivered on the 17<sup>th</sup> session held on 15<sup>th</sup> August 2018

**on the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 93/13/EEC of 5 April 1993, Directive 98/6/EC of the European Parliament and of the Council, Directive 2005/29/EC of the European Parliament and of the Council and Directive 2011/83/EU of the European Parliament and of the Council as regards better enforcement and modernisation of EU consumer protection rules (Senate Print no. N 123/11, COM(2018) 185)**

**The Senate**

**I.**

**1. Considers it unacceptable**

that consumers in the EU are exposed to a misleading commercial practice consisting in marketing visually identical products (with the same label and trademark) with different quality and composition in different Member States;

**2. Supports**

- the Commission's efforts to eliminate dual quality consumer products from the EU single market and all the accompanying measures, e.g. investment in comparative testing of consumer products;
- the amendment of Article 6(2) of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market, that will explicitly determine that any marketing of a product as being identical to the same product marketed in several other Member States, while those products have significantly different composition or characteristics, constitutes a misleading commercial practice;

**3. Considers**

the current wording of Article 14(2) of Directive 2011/83/EU on consumer rights, according to which "the consumer shall only be liable for any diminished value of the goods resulting from the handling of the goods other than what is necessary to establish the nature, characteristics and functioning of the goods" in connection with the other provisions of Article 14 on the obligations of the customer in the

event of withdrawal to be a sufficient guarantee of the rights of the trader in the event of withdrawal;

**4. Therefore does not agree**

with the amendments to Article 13 (obligations of the trader in the event of withdrawal) and Article 16 (exceptions from the right of withdrawal) of Directive 2011/83/EU on consumer rights, because the proposed amendments

- will lead to a restriction of the consumer's right to withdraw; and
- may be misused by unfair traders as a means of defence against legitimate claims of the consumers to return unwanted goods;

**5. Supports**

the prescription of further information requirements for contracts concluded on online marketplaces by the new Article 6 of Directive 2011/83/EU on consumer rights, as an effort to increase the transparency of online search for consumers;

**II.**

**1. Requests**

the Government to inform the Senate about the way this resolution was taken into account and about further development of negotiations once the political agreement of the required number of Member States on the main elements of the proposal is reached, or at an earlier time, should the results of negotiations in the Council begin to depart considerably from the position of the Czech Republic expressed in the General Position of the Government;

**2. Authorises**

the President of the Senate to forward this Resolution to the European Commission.

Milan Štěch  
sign manual  
President of the Senate

Tomáš Grulich  
sign manual  
Senate Verifier