

Distance Marketing of Financial Services – evaluation of EU rules

Fields marked with * are mandatory.

Introduction

The development of a deeper and fairer single market is one of the European Commission's key priorities. As part of this objective, the European Commission is working to help consumers to access good quality financial services offered outside their home Member State.

[Directive 2002/65/EC](#) of the European Parliament and of the Council of 23 September 2002 on distance marketing of consumer financial services ("the Directive") aims to ensure the free movement of financial services in the single market by harmonising consumer protection rules governing this area.

The Directive sets out what information a consumer should receive about a financial service and its provider before concluding a distance contract. For certain financial services, it also gives the consumer a 14-day right of withdrawal. In addition, the Directive bans services and communications from suppliers that a consumer has neither solicited nor consented to.

The Commission's 2017 [Consumer Finance Action Plan](#) sets out different actions to improve consumer experience in the field of financial services. Of particular note is the Commission's intention to monitor the distance selling market. This will enable the Commission to identify potential consumer risks and business opportunities in the market and, on that basis, decide whether there is a need to amend the requirements on distance selling (including disclosure).

A first step in this work has been to launch a behavioural study on the digitalisation of the marketing and distance selling of retail financial services. Over the past years, the retail financial sector has gone increasingly digital, with new products and actors appearing, and new channels being used. [The study](#) provides valuable insights into the practices used online by providers and how they affect consumer decision-making.

Since 2002, when the Directive was adopted, several pieces of product-specific EU legislation have been adopted in the areas of [consumer credit](#), [mortgages](#), [payment accounts](#), [payment services](#), [insurance products](#) and investment products. These acts specify, for instance, the type of information a consumer should receive about a product and its provider. The legal framework also includes general consumer protection rules on [unfair commercial practices](#) and [unfair contract terms](#), as well as rules on the [e-commerce framework](#), [data protection](#) and [e-privacy](#).

Some 17 years after the adoption of the Directive, the Commission is launching a second evaluation to assess whether the Directive is still fit for purpose given all the market developments that have occurred since 2002. A first evaluation, carried out in 2009, pointed to the efforts made to regulate specific financial services at EU level and to the need to monitor evolutions in the market, especially given the development of e-commerce.

This public consultation is an opportunity for consumers, retail financial services professionals, national authorities and any other interested stakeholders to give their opinions on how well they think the Directive is functioning. The results of this consultation will help the Commission assess the Directive's coherence, effectiveness, efficiency, relevance and EU added value.

The consultation consists of two short questionnaires. The first (set out in Part I) is aimed at the general public. The second (set out in Part II) is for other stakeholders such as associations, authorities and financial services providers.

The public consultation will be available in all 24 official languages of the EU.

Shortly after the close of the consultation, the Commission will publish a summary of the contributions received. In addition, opinions gathered through the public consultation will directly feed into the Commission's evaluation of the Directive, providing additional answers to the evaluation questions. The Commission will summarise the findings of the evaluation in a staff working document, which will include a summary of all consultation activities, including a specific summary of the open public consultation.

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐ Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ Gaelic
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish
- ☐ Portuguese
- ☐ Romanian

- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Company/business organisation
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☒ Non-governmental organisation (NGO)
- ☐ Public authority
- ☐ Trade union
- ☐ Other

* First name

Olivier

* Surname

jérusalmy

* Email (this won't be published)

olivier.jerusalmy@finance-watch.org

* Organisation name

255 character(s) maximum

FINANCE WATCH

* Organisation size

- ☐ Micro (1 to 9 employees)
- ☒ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☐ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

*Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Samoa |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> San Marino |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Senegal |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Serbia |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Seychelles |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Ethiopia | <input type="radio"/> Mali | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Argentina | <input type="radio"/> Falkland Islands | <input type="radio"/> Malta | <input type="radio"/> Singapore |
| <input type="radio"/> Armenia | <input type="radio"/> Faroe Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Sint Maarten |
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| <input type="radio"/> Austria | <input type="radio"/> North Macedonia | <input type="radio"/> Mauritius | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Somalia |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> South Africa |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Georgia and the South Sandwich Islands |
| <input type="radio"/> Bangladesh | <input type="radio"/> French Southern and Antarctic Lands | <input type="radio"/> Moldova | <input type="radio"/> South Korea |
| <input type="radio"/> Barbados | <input type="radio"/> Gabon | <input type="radio"/> Monaco | <input type="radio"/> South Sudan |
| <input type="radio"/> Belarus | <input type="radio"/> Georgia | <input type="radio"/> Mongolia | <input type="radio"/> Spain |
| <input checked="" type="radio"/> Belgium | <input type="radio"/> Germany | <input type="radio"/> Montenegro | <input type="radio"/> Sri Lanka |
| <input type="radio"/> Belize | <input type="radio"/> Ghana | <input type="radio"/> Montserrat | <input type="radio"/> Sudan |
| <input type="radio"/> Benin | <input type="radio"/> Gibraltar | <input type="radio"/> Morocco | <input type="radio"/> Suriname |
| <input type="radio"/> Bermuda | <input type="radio"/> Greece | <input type="radio"/> Mozambique | <input type="radio"/> Svalbard and Jan Mayen |
| <input type="radio"/> Bhutan | <input type="radio"/> Greenland | <input type="radio"/> Myanmar/Burma | <input type="radio"/> Swaziland |
| <input type="radio"/> Bolivia | <input type="radio"/> Grenada | <input type="radio"/> Namibia | <input type="radio"/> Sweden |
| <input type="radio"/> Bonaire Saint Eustatius and Saba | <input type="radio"/> Guadeloupe | <input type="radio"/> Nauru | <input type="radio"/> Switzerland |
| <input type="radio"/> Bosnia and Herzegovina | <input type="radio"/> Guam | <input type="radio"/> Nepal | <input type="radio"/> Syria |
| <input type="radio"/> Botswana | <input type="radio"/> Guatemala | <input type="radio"/> Netherlands | <input type="radio"/> Taiwan |
| <input type="radio"/> Bouvet Island | <input type="radio"/> Guernsey | <input type="radio"/> New Caledonia | <input type="radio"/> Tajikistan |
| <input type="radio"/> Brazil | <input type="radio"/> Guinea | <input type="radio"/> New Zealand | <input type="radio"/> Tanzania |

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|--|---|---|--|
| <input type="radio"/> British Indian Ocean Territory | <input type="radio"/> Guinea-Bissau | <input type="radio"/> Nicaragua | <input type="radio"/> Thailand |
| <input type="radio"/> British Virgin Islands | <input type="radio"/> Guyana | <input type="radio"/> Niger | <input type="radio"/> The Gambia |
| <input type="radio"/> Brunei | <input type="radio"/> Haiti | <input type="radio"/> Nigeria | <input type="radio"/> Timor-Leste |
| <input type="radio"/> Bulgaria | <input type="radio"/> Heard Island and McDonald Islands | <input type="radio"/> Niue | <input type="radio"/> Togo |
| <input type="radio"/> Burkina Faso | <input type="radio"/> Honduras | <input type="radio"/> Norfolk Island | <input type="radio"/> Tokelau |
| <input type="radio"/> Burundi | <input type="radio"/> Hong Kong | <input type="radio"/> North Korea | <input type="radio"/> Tonga |
| <input type="radio"/> Cambodia | <input type="radio"/> Hungary | <input type="radio"/> Northern Mariana Islands | <input type="radio"/> Trinidad and Tobago |
| <input type="radio"/> Cameroon | <input type="radio"/> Iceland | <input type="radio"/> Norway | <input type="radio"/> Tunisia |
| <input type="radio"/> Canada | <input type="radio"/> India | <input type="radio"/> Oman | <input type="radio"/> Turkey |
| <input type="radio"/> Cape Verde | <input type="radio"/> Indonesia | <input type="radio"/> Pakistan | <input type="radio"/> Turkmenistan |
| <input type="radio"/> Cayman Islands | <input type="radio"/> Iran | <input type="radio"/> Palau | <input type="radio"/> Turks and Caicos Islands |
| <input type="radio"/> Central African Republic | <input type="radio"/> Iraq | <input type="radio"/> Palestine | <input type="radio"/> Tuvalu |
| <input type="radio"/> Chad | <input type="radio"/> Ireland | <input type="radio"/> Panama | <input type="radio"/> Uganda |
| <input type="radio"/> Chile | <input type="radio"/> Isle of Man | <input type="radio"/> Papua New Guinea | <input type="radio"/> Ukraine |
| <input type="radio"/> China | <input type="radio"/> Israel | <input type="radio"/> Paraguay | <input type="radio"/> United Arab Emirates |
| <input type="radio"/> Christmas Island | <input type="radio"/> Italy | <input type="radio"/> Peru | <input type="radio"/> United Kingdom |
| <input type="radio"/> Clipperton | <input type="radio"/> Jamaica | <input type="radio"/> Philippines | <input type="radio"/> United States |
| <input type="radio"/> Cocos (Keeling) Islands | <input type="radio"/> Japan | <input type="radio"/> Pitcairn Islands | <input type="radio"/> United States Minor Outlying Islands |
| <input type="radio"/> Colombia | <input type="radio"/> Jersey | <input type="radio"/> Poland | <input type="radio"/> Uruguay |
| <input type="radio"/> Comoros | <input type="radio"/> Jordan | <input type="radio"/> Portugal | <input type="radio"/> US Virgin Islands |
| <input type="radio"/> Congo | <input type="radio"/> Kazakhstan | <input type="radio"/> Puerto Rico | <input type="radio"/> Uzbekistan |
| <input type="radio"/> Cook Islands | <input type="radio"/> Kenya | <input type="radio"/> Qatar | <input type="radio"/> Vanuatu |
| <input type="radio"/> Costa Rica | <input type="radio"/> Kiribati | <input type="radio"/> Réunion | <input type="radio"/> Vatican City |
| <input type="radio"/> Côte d'Ivoire | <input type="radio"/> Kosovo | <input type="radio"/> Romania | <input type="radio"/> Venezuela |
| <input type="radio"/> Croatia | <input type="radio"/> Kuwait | <input type="radio"/> Russia | <input type="radio"/> Vietnam |
| <input type="radio"/> Cuba | <input type="radio"/> Kyrgyzstan | <input type="radio"/> Rwanda | <input type="radio"/> Wallis and Futuna |
| <input type="radio"/> Curaçao | <input type="radio"/> Laos | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Western Sahara |
| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Helena Ascension and Tristan da Cunha | <input type="radio"/> Yemen |
| <input type="radio"/> Czechia | <input type="radio"/> Lebanon | <input type="radio"/> Saint Kitts and Nevis | <input type="radio"/> Zambia |
| <input type="radio"/> Democratic Republic of the Congo | <input type="radio"/> Lesotho | <input type="radio"/> Saint Lucia | <input type="radio"/> Zimbabwe |
| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Martin | |

* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ **Anonymous**

Only your type, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.



Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.



* I agree with the [personal data protection provisions](#)

Part I: Questionnaire for the general public

If you are not replying as a member of the general public, please go to Part II.

In this part of the questionnaire, we would like you to share your experience of researching and buying retail financial services such as consumer loans, insurance and bank accounts using means of distance communication such as the internet, telephone or postal services. This part of the questionnaire does not cover face-to-face interactions with a financial services provider.

Question 1. In the past 5 years, have you searched for or received information on any of the following financial services through any of these means of distance communication?

	On the internet using a desktop, laptop or tablet	On the internet using a smartphone	By post	Via phone call	Through an other means of distance communications (e.g. fax, virtual assistant, other)
Consumer credits (including credit cards)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mortgages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insurance products (e.g. car or home insurance)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Payment accounts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Investment products (e.g. shares or bonds)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Payment services (such as money transfer services)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal pension products	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Did you also look for information on a service not listed above, or use a means of distance communication not listed above? If so, please specify which one(s):

500 character(s) maximum

Question 2. What type of information were you consulting?

- ☒ Advertising on apps, websites, social networks or video-sharing platforms
- ☒ Information sent to you by emails or text messages
- ☐ Information you requested by email or text messages
- ☐ Information on comparison apps or websites about similar products
- ☐ Information about the product on the provider's website/apps
- ☐ Advertising and other information sent by post
- ☐ I don't remember

If other, please specify:

500 character(s) maximum

Question 3: If you bought the financial service you were looking for, did you complete the transaction using the same means of distance communication?

- ☐ Yes
- ☐ No

Question 4. Based on your experience, how would you rate the following statements about the distance marketing and selling of financial services?

	Fully agree	Somewhat agree	Somewhat disagree	Fully disagree	Don't know
It allows me to access more offers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It allows me to access cheaper offers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It allows me to compare offers more easily	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It allows me to access services that are better adapted to my needs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It allows me to take more time to review the offers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

It means I can access the service 24 hours a day	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It saves me time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other? Please specify:

500 character(s) maximum

Question 5. Which means of communication do you prefer using to purchase financial services?

- ☐ Desktop/laptop
- ☐ Smartphone
- ☐ Tablets
- ☐ Phone
- ☐ Face-to-face
- ☐ Postal service
- ☐ Other

Please specify why:

500 character(s) maximum

Question 6. Which type of services do you believe it is appropriate to offer via distance communication?

	Yes	No	Don't know
Consumer credits (including credit cards)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance products (e.g. car or home insurance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Investment products (e.g. shares or bonds)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment services (e.g. money transfer services)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal pension products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other? Please specify.

500 character(s) maximum

Question 7. When you are looking for a financial service using a means of distance communication, how important do you consider the following:

	Very important	Somewhat important	Not important	Don't know
Having information about the identity of the service provider	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having information about the main characteristics of the service, including the costs associated	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having the right to withdraw from the contract, for instance if you have changed your mind	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being contacted by a provider of financial services only when you have given your prior agreement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not having pre-ticked boxes adding additional services (such as insurance) to the service you are looking for	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other? Please specify:

500 character(s) maximum

Question 8. Thinking about the service itself, what information would you judge important to have to make your decision?

	Very important	Somewhat important	Not important	Don't know
A description of the service provided	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The total price to be paid, including all possible fees and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The potential risks associated to the service (e.g. the risk of losing the money invested)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The potential gains/revenues stemming from the service (e.g. for investments)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The existence of additional taxes or costs that the consumer has to pay to someone other than the supplier (e.g. to tax authorities)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
How long the offer is valid	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The existence of the right of withdrawal and its conditions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The minimum duration of the contract	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The conditions for terminating the contract	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about applicable law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the language the contract is drawn up in and about the terms under which the service is provided	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The existence of out-of-court redress mechanisms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other? Please specify:

500 character(s) maximum

Question 9. Thinking about your answers to Question 8, where you said what information is important to have, how important would you consider the following statements on the presentation of this information:

	Very important	Somewhat important	Not important	Don't know
The information must be presented in a format that enables me to compare it with other products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The information must be presented prominently and immediately (e.g. in a single block on the webpage presenting the product)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This information must be presented in a way that is adapted to the channel (e.g. size of the screen)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I must be able to choose the format in which I can access the information (e.g. pdf, other)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other? Please specify:

500 character(s) maximum

Question 10. Thinking again about your answers to Question 8 and what information about the service you said was important to have, how far do you agree with the following statements about when the information should be provided?

	I agree	I disagree	I don't know
The information should be provided by default, for instance on the product's page on a provider's website, whether or not I plan to purchase the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The information should be provided well before I sign the contract (e.g. 24 hours before)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The information should be provided shortly before I sign the contract (e.g. 1 hour before)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The information should only be provided together with the contract, when I am about to sign it	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Personalisation of advertising and offers

Question 11. Thinking about tailored advertisements and offers of financial services based on your online and offline activity (e.g. websites browsed, shopping behaviour), is it something:

	I agree	I disagree	I don't know
That is difficult to identify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
That enables you to get to find out about services you are interested in	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
That enables you to obtain better deals and save money	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
That is not transparent enough	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
That could limit your choice of services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify the advantages or drawbacks you see in such practices:

500 character(s) maximum

Finally, we would like your views on and experience of financial services provided by providers based in an EU country different from the one where you live.

Question 12. Obtaining a financial service from a provider based in another EU country is something that you...

- ☐ have already done/tried to do
- ☐ would do to find better deals
- ☐ would not do because you are satisfied with the services and conditions offered in your country/area
- ☐ would not do because you are unsure about your rights or where to turn to get redress in case of a problem

- ☐ would not do because of language barriers
- ☐ would not do because you prefer face-to-face contact

Other? Please specify:

500 character(s) maximum

Question 12.1 If you have already obtained, or tried to obtain, a financial service from a provider based in another EU country, how would you describe your experience?

- ☐ I tried to find services available in another EU country but could not access the website.
- ☐ I tried to find services available in another EU country but was redirected to a website that was specific to the country where I live.
- ☐ I could access the offers but could not understand the information provided about the services.
- ☐ I could access the offers but could not compare the information provided about the services.
- ☐ I could access the offers but could not complete the transaction (for instance the transaction was refused when you provided your place of residence or nationality).
- ☐ I managed to obtain the financial service and was satisfied with the outcome.
- ☐ I managed to obtain the financial service but it was difficult.

Please elaborate on or highlight any specific problems encountered:

500 character(s) maximum

Part II: Questionnaire for other stakeholders

Questions on relevance

The relevance criterion in the Commission evaluation looks at the relationship between the needs and problems in society and the objectives of the Directive. It also involves considering how far the Directive's objectives correspond to wider EU policy goals and priorities.

As a reminder, the Directive's aims are to:

- 1- harmonise consumer protection across the EU and guarantee a high level of consumer protection, which will generate consumer trust in the distance selling of financial services;
- 2- help consolidate the single market of financial services to ensure the free movement of retail financial services.

Question 1. Have the following developments changed the provision of distance retail financial services since 2002?

	Totally agree	Somewhat agree	Somewhat disagree	Totally disagree	Do not know

The use of internet in the distance marketing and selling of financial services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The use of new devices such as smartphones	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The profiling of consumers based on personal data	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New market players such as fintech providers; this includes the use of technology to improve and automate the delivery and use of financial services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The adoption of product-specific legislation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The level of competition in your country	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The level of cross-border competition	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please mention any other developments you consider important:

We welcome the opportunity to provide input to the European Commission's consultation on the evaluation of Directive 2002/65/EC on distance marketing of financial services (hereafter DMFSD).

Digitalisation has had a profound impact on all sectors, including retail financial services. The way consumers interact with banks, payment service providers and other financial firms has changed. Many traditional service providers have adopted digital tools to diversify their distribution channels through internet and smartphone apps. New FinTech providers offer traditional financial services (bank account, payment services, credit, investments) through online channels. Besides that, new types of products and business models have emerged, such as crowdfunding, automated advice, peer-to-peer insurance.

Consumers' online and offline behaviour is ever more under scrutiny by service providers and traders. Financial and non-financial firms strive to collect more and more consumer data in an attempt to predict, with a higher and higher level of accuracy, their preferences, future behaviour and risk profile. The advent of open banking will bring the consumer profiling and targeting to the next level.

Digitalisation offers benefits and opportunities to consumers, such as easy access, constant availability of services and convenience. At the same time, there are several risks. A recent OECD report provides a useful classification of the risks:

- Market driven, e.g. cybersecurity, privacy-related risks and confidentiality of data, rapid access to excessively risky and speculative products.
- Regulation and supervision driven, e.g. lack of enforcement and regulatory arbitrage.
- Consumer driven, e.g. sub-optimal financial decisions driven by behavioural biases.
- Technology driven, e.g. flawed and biased algorithms, consumer discrimination and exclusion based on more granular personalization of risks and products.

Question 2. How relevant/up to date do you consider the following parts and provisions of the Directive in the current context?

	Totally relevant	Somewhat relevant	Somewhat irrelevant	Totally irrelevant	Do not know
The scope of the Directive, i.e. covering banking, credit, insurance, personal pensions, investments and payment services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The technology-neutral approach of the Directive	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information to be provided about the provider	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information to be provided about the financial service and its conditions	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
How information should be provided over the phone	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The existence of a right of withdrawal for certain services	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cancellation of payments made through fraudulent use of a payment card	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Ban on unsolicited services	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ban on unsolicited communications	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your responses:

- In case DMFSD is reviewed, Art 3 (Information to the consumer prior to the conclusion of the distance contract) must be updated and adapted to more recent legislative developments. For example, Art 3.1(4) should be amended to clarify that the consumer has access to out-of-court redress mechanisms. In addition, Art 3 should refer to the relevant sectoral laws adopted more recently, such as Directive 2014/49/EU on deposit guarantee schemes.
- The concept of 'durable medium' may need to be reviewed. Back in 2002, consumers may have believed CD-ROMs are a good idea to store their financial contracts and other documents, yet some consumers today may not even own a reading device with their notebook/tablet anymore. Contracts may be important for decades, for consumers, their relatives or caretakers that need to access documents because of unexpected illness or death. The Commission should look at good practices across Europe.
- The EC behavioural study published together with this consultation provides a very useful insight into the problems facing consumers when shopping for financial services online. The behavioural tests revealed, among others, some practices of misleading information, the omission of key conditions in the advertising and pre-contractual stage, practices of highlighting positive features of the products while giving less visibility to less favourable features such as costs and risks. Based on these findings the study provides recommendations on how to improve the quality of information provided to consumers and adapt it to the digital environment (recommendation 2). We strongly supports this recommendation: information provided to consumers must be reliable, relevant and timely. That said, improving the quality of information cannot be a panacea to solve consumer problems in financial services. We urge the EC to ensure that financial institutions prioritize consumer needs and expectations when designing and distributing their products (see our response to Q3).
- Right of withdrawal is very important for consumers, especially when it comes to important financial contracts. The provisions on the right of withdrawal (Art 6) exclude several financial products (e.g. foreign exchange, transferable securities, units in collective investment undertakings) plus give an option to member states to exempt some other products (e.g. mortgage credit). The Mortgage Credit Directive adopted in 2014 provides that the borrower should have either a reflection period before signing the mortgage contract or the right of withdrawal. Art 14 of the Consumer Credit Directive also provides consumers the right of withdrawal for both online and offline credit contracts. A review of DMFSD could be an opportunity to assess whether the right of withdrawal should cover all important financial contracts (in terms of length and financial implication) that consumers purchase online and offline, including the contracts signed outside the premises of financial service providers and intermediaries.
- Art 8 related to payment fraud is obsolete since the Payment Services Directive 2 contains provisions to protect consumers in such situations. Furthermore, Art 8 refers only to payment by card, while the EU retail payments market developed significantly since 2002, and many new providers and payment solutions entered the market. Art 8 should be removed. It is worth adding that we advocate for improving and harmonizing consumer protection (security and liability) across all means of payment, including credit transfers. In addition, we consider that PSD2 RTS on strong customer authentication and secure communication contain some flaws.
- Art 9 (Unsolicited services) makes the ban on unsolicited services conditional on the existence of tacit renewal of distance contracts. We consider that there should be a straightforward ban on unsolicited marketing and sales, both online and offline
- Art 10 (Unsolicited communications) also needs amendments. First, para 2(a) provides that "unsolicited distance communication may be used if the consumer has not expressed his manifest objection". As already stressed above, any unsolicited communication by financial service providers should be forbidden, in line with Art 13 of the ePrivacy Directive which provides that unsolicited communications are subject to opt-in as a general rule (see our response to Q11). Second, Art 10 refers to 'fax machines' which are unlikely to be used for financial marketing and advertising nowadays. Therefore, Art 10 and the whole directive should be adapted to technological developments (or alternatively should be formulated in a technology-neutral way).

Question 3. Are there any issues which the Directive currently does not address but you consider should be addressed?

- ☒ Yes
☐ No
☐ Don't know

If you answered “yes”, please specify:

It's important to ensure that DMFSD and its possible review do not create discrepancies between essential consumer rights online and offline.

The following new provisions would help filling gaps in financial consumer protection legislation:

- Most financial products (even the basic ones) are complex and not easy to understand for average consumers. We urge the EC to introduce rules on product oversight and governance for financial product manufacturers and distributors: a) When designing products, financial institutions should take consumer interests, objectives and characteristics into account; identify the target market; test products with consumers before launching them on the market; monitor products once they are brought to market and take timely corrective measures to prevent consumer detriment; b) Products should be provided only to the relevant target market; c) Product distributors should assess the suitability of annex products, such as insurance, to the consumer's needs and expectations.
- We also support the EC behavioural study's recommendation to develop simpler financial products (recommendation 3). This recommendation is presented as a measure to protect vulnerable consumers. A possible review of DMFSD could be an occasion to develop an EU level framework with key principles for simple and standardized financial products.
- Besides product complexity, one of the fundamental problems facing consumers is poor quality financial advice. Financial “advice” today is, in most cases, nothing more than a commission-driven sales talk aimed at extracting maximal profit from consumers. A possible DMFSD review could consider adopting measures to ensure that advice (both human advice and robo-advice) is of good quality and trustworthy.
- Financial services comparison tools play an important role in helping consumers to choose the right products and services. The way comparison tools perform impacts market competition and consumer outcomes. The revised DMFSD should therefore ensure that online comparison websites and tools are of good quality, impartial, trustworthy and do not mislead consumers. The revised DMFSD should adopt horizontal rules for all financial services comparison tools.
- A possible review of DMFSD should consider putting limitations on marketing of toxic and excessively risky products to consumers. For example, payday loans (short-term high-cost loans) are mainly distributed through online channels. It's widely known that these loans specifically target low income consumers who struggle to make their ends meet. So, payday loans do not help those consumers, but rather aggravate their financial situation.
- Cross-selling practices (especially tying) can cause significant consumer detriment (limited choice, non-transparent and high costs, poor value-for-money). See for example, huge detriment stemming from cross-selling of payment protection insurance (PPI) with credit across EU countries. Currently, rules on tying are fragmented across EU product-specific laws (Payment Accounts Directive, Mortgage Credit Directive, Insurance Distribution Directive). It would be relevant to harmonise those rules by imposing a horizontal ban on tying.





















- Linked to tying and bundling, the practice of ‘pre-ticked boxes’ is harmful to consumers and should be forbidden. The EC behavioural study recommends addressing this issue through legislation (p.118). Thus, to be sure of avoiding the potential detriment that might be caused by this practice, similar rules prohibiting it could be applied to financial services (although it should be noted that specific national level legislation banning the practice may already be in place in specific countries).”
- A possible review of DMFSD could be an occasion to harmonise the rules related to contract termination across financial services. We believe that consumers should be able to switch freely between financial service providers, and that a ban or cap on contract termination/switching fees should be introduced across all financial products.
- Artificial intelligence and data analytics impact all sectors, including retail finance, e.g. algorithmic credit scoring, more granular risk analysis in insurance sector, fraud prevention based on payment data analysis, robo-advice, etc. A key impact of digitalisation is that financial services providers can target and personalize their offers to consumers. With the rise of technology based on AI and open banking, this trends towards targeting and personalization will only increase. The revised DMFSD should safeguard financial services consumers from risks related to these tools, such as risk of discrimination and exclusion.

Questions on effectiveness

The effectiveness criterion in the evaluation considers how successful EU action has been in achieving or progressing towards its objectives.

Question 4. How effective are the following aspects/features of the Directive at ensuring consumer protection and contributing to the completion of the single market?

	Very effective	Somewhat effective	Somewhat ineffective	Very ineffective	Do not know
The horizontal scope of the Directive, i.e. covering banking, credit, insurances, personal pensions, investments and payment services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The technology-neutral approach of the Directive	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The level of harmonisation	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information to be provided about the provider	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information to be provided about the financial service and its conditions	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
How information should be provided over the phone	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

The existence of a right of withdrawal for certain services					
Cancellation of payments made through fraudulent use of a payment card					
Ban on unsolicited services					
Ban on unsolicited communications					

Please specify:

One of the key findings of the EC behavioral study published together with this consultation is that many online sales practices are not in line with horizontal (UCPD, UCTD, GDPR, e-Commerce Directive) and sectoral EU laws currently in place. For example, legal jargon and complexity of terms was observed for all products, which is problematic vis-à-vis Art 7(2) of the UCPD obligation to provide the information in a clear and comprehensible manner (p.50 of the study). Another example, practices emphasizing the availability of promotional offers should be advertised as such, and the conditions to benefit from them should be clear, in conformity with Art 6(c) of e-Commerce Directive.

These findings confirm once again that even best laws cannot be a game changer for consumers if not properly enforced. We strongly support recommendation 1 of the EC behavioural study: Ensure that existing legislation is rigorously enforced to maintain a level playing field for all market actors and to protect consumers. For many years we have been raising the alarms over the fact that the quality of supervision and enforcement is hugely divergent across EU countries. We support BEUC calling on the EU institutions to enable supervisory convergence to ensure that EU laws translate into effective protection of all EU consumers. The European Supervisory Authorities (EBA, ESMA, and EIOPA) are in a good position to lead the supervisory convergence work. The ESAs recent reform provided them with a stronger consumer protection mandate that they should now make full use of, e.g. they will be able to coordinate mystery shopping activities of national competent authorities (Art 9 of revised ESAs Regulations).

In a digitalized world and following recent legislative reforms (such as PSD2), sectoral frontiers become increasingly blurred. Thus, tech giants offer financial services and are among the actors of the open banking ecosystem, insurance products are offered as part of energy packages, and the provisions of the new data protection legislation (GDPR) impact the practices of all market actors. Against this background, cross-sectoral cooperation among EU and national regulators and supervisors (financial, data protection, horizontal consumer protection, energy sector supervisors) becomes increasingly important. A formal cooperation framework should be set up for that purpose. For example, the ESAs have recently been mandated to cooperate with the European Data Protection Board to avoid duplication, inconsistencies and legal uncertainty in the sphere of data protection (Art 9 of revised ESAs Regulations).

Besides that, close international cooperation among regulators and supervisors is more relevant than ever. Dangerous and speculative products (e.g. payday loans, crypto-assets, speculative investment products) can reach consumers very easily through social media platforms and other online channels. Since the internet has no borders, foreign providers, including the non-European ones, can easily target EU consumers. This presents a challenge for regulators and supervisors at global level and calls for international cooperation in order to reduce the opportunities for regulatory arbitrage and forum shopping.

Questions on efficiency

When deciding whether to introduce a sector-specific regulation, the EU faces the challenge of balancing the potential benefits of the regulation against its potential costs. In the case of the Distance Marketing of Financial Services Directive, these costs include direct costs incurred by the financial service providers on compliance and administration, the national authorities' enforcement costs and the costs incurred by other businesses involved in distributing these services.

Question 5. How would you rate the costs resulting from the Directive?

	Very costly	Somewhat costly	Not costly	Do not know
Information to be provided about the provider	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information to be provided about the financial service and the conditions attached	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
How information should be provided over the phone	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The existence of a right of withdrawal for certain services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cancellation of payments made through fraudulent use of a payment card	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ban on unsolicited services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ban on unsolicited communications	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your responses.

We consider this question inappropriate.

Question 6. To what extent are these costs generated by the Directive rather than by product-specific legislation?

We consider this question inappropriate.

Question 7. How would you rate the following benefits of the Directive?

	Very beneficial	Somewhat beneficial	Not beneficial	Do not know
Information to be provided about the provider	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information to be provided about the financial service and the conditions attached	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
How information should be provided over the phone	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The existence of a right of withdrawal for certain services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Cancellation of payments made through fraudulent use of a payment card	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Ban on unsolicited services	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ban on unsolicited communications	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your responses.

See our responses to previous questions (regarding the provisions that need to be reviewed, proposals for new provisions, need to enhance enforcement and cross-sectoral cooperation among regulators and supervisors).

Question 8. To what extent are these benefits generated by the Directive rather than by product-specific legislation?

Product-specific EU laws (PSD2, PAD, MCD, IDD, MiFID, etc.) are more recent and therefore reflect better the latest market and technological developments. However, there is a merit in considering the harmonization of some horizontal principles across financial products and markets (see our response to Q3). We invite the Commission to take our proposals into account when considering a review of DMFSD.

Question 9. Overall, do the benefits of the Directive outweigh its costs?

- ☐ Yes
- ☐ No
- ☐ No opinion/Don't know

Please specify:

We consider this question inappropriate.

Question 10. Are there any areas in the Directive where there is room for simplification or reduction of costs? Please specify:

We consider this question inappropriate.

Questions on coherence

The evaluation of coherence involves looking at how well different actions work together. Since the adoption of the Directive, several product-specific pieces of legislation have come into force, covering consumer credit, mortgages, payment accounts, payment services, insurance products and investment products. Other pieces of legislation interacting with the Directive include general consumer protection rules on unfair commercial practices and unfair contract terms, and those pertaining to the e-commerce framework and data protection.

Question 11. To what extent is the Directive coherent with other EU legislation:

	Very coherent	Somewhat coherent	Somewhat incoherent	Very incoherent	Do not know
Consumer Credit Directive (CCD)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgage Credit Directive (MCD)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment Accounts Directive (PAD)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment Services Directive (PSD)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance Distribution Directive (IDD)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Market in Financial Instruments Directive (MiFID)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Undertakings for the collective investment in transferable securities Directive (UCITS)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Key information documents for packaged retail and insurance-based investment products Regulation (PRIIPS)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prospectus Regulation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Alternative investment fund managers Directive (AIFM)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unfair Commercial Practices Directive (UCPD)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unfair Contract Terms Directive (UCTD)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
General Data Protection Regulation (GDPR)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
ePrivacy Directive (EPD)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
e-commerce Directive (ECD)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Geo-blocking Regulation	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

For each of the legal acts listed above, please specify in which respect(s) you consider it is coherent or not with the Directive:

- DMFSD Art 8 related to payment fraud is not coherent with the Payment Services Directive 2 (PSD2). PSD2 contains provisions to protect consumers in case of payment fraud. Furthermore, DMFSD Art 8 refers only to payment by card, while the EU retail payments market developed significantly since 2002, and many new providers and payment solutions entered the market.
- We have not identified incoherence between DMFSD and UCPD, UCTD, MCD, CCD (see also our position on the CCD evaluation), PAD, IDD, MiFID, UCITS, PRIIPs, AIFMD, Prospectus Regulation, GDPR.

Besides that, we concur with the legal analysis of the practices identified in the EC behavioural study (see pages 49-52, 88-89, 108-109, 116-117, 124 of the study).

- There is a divergence between the ePrivacy Directive and DMFSD Art 10 with deals with unsolicited commercial communications via electronic means. Art 10 only requires prior consent for unsolicited commercial communications via automated calling and fax machines. For all the other means (e.g. email) it says that member states shall adopt measures so that such communications are not authorised without consent or that they may only be used if the consumer has not expressed his manifest objection. This means that for anything that is not automated cold calling or fax (mandatory opt-in), member states can choose between opt-in or opt-out. The ePrivacy Directive is different in this regard. According to its Art 13, in addition to fax and automated calling, unsolicited communications via email is also subject to opt-in as a general rule. Exception is if the email is obtained in the context of a sale of a product or a service, then the company can use the email for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, at the time of the collection of the contact details and each time they receive a message, in case they did not initially refused. See also our demand for ban on unsolicited services and communications (Q2).
- Financial services are excluded from the scope of the Geo-blocking Regulation except the provisions on non-discrimination for payments. Retail finance markets are still largely national affairs. Yet, price differences between Member States exist, suggesting potential benefits for more cross-border sales and competition. But it is not easy for consumers to purchase financial services across border from other EU countries, especially when it comes to insurance products (e.g. motor insurance. It's worth adding that consumers don't need more choice, but better choice. More products on the market do not automatically translate into better consumer outcomes and satisfaction. Hence, the importance for regulators and supervisors to pay close attention to adequate product design and distribution rules (see our response to Q2 and Q3).
- e-Commerce Directive (2000) is outdated. Its recital 27 provides that "This Directive, together with the future Directive of the European Parliament and of the Council concerning the distance marketing of consumer financial services, contributes to the creating of a legal framework for the online provision of financial services; this Directive does not pre-empt future initiatives in the area of financial services in particular with regard to the harmonisation of rules of conduct in this field; the possibility for Member States, established in this Directive, under certain circumstances of restricting the freedom to provide information society services in order to protect consumers also covers measures in the area of financial services in particular measures aiming at protecting investors." Since 2000, many EU financial product-specific regulations and directives have been adopted or are in the pipeline (e.g. draft Crowdfunding Regulation).
- As identified by the EC behavioural study published together with this consultation, lack of enforcement of relevant consumer protection rules specified in horizontal and product-specific legislation is problematic. This is a more pressing issue than coherence between DMFSD and the above-listed EU laws: we have not identified major incoherencies in that regard. We wish to reiterate our call for a better and coordinated public enforcement at national and EU level (see response to Q4).
- Finally, the recently adopted Omnibus Directive is also worth mentioning as it applies to financial services and could help tackle some misleading practices online. The new directive introduces more transparency requirements for online platforms. For example, if consumer reviews and ratings are introduced in advertising or the invitation to purchase, the Directive introduces new rules protecting consumers from fake online reviews and an obligation to inform consumers about the personalized pricing and the ranking of products.

Question 12. Given that the Directive applies to different products, does it bring any additional value compared to product-specific legislation? Please give details for your answer.

See our response to Q8 and others.

Question 13. Are you aware of any contradictions/overlaps/inconsistencies/missing links between the Directive and national legislation? If so, what are they?

Questions on EU added value

In any policy initiative, the Commission must consider whether there is added value in tackling certain issues at EU level or whether it would be better for them to be dealt with by the Member States.

Question 14. In your view, what is the added value delivered by the Directive and its implementation, over and above what could reasonably have been expected from national legislation in the Member States alone?

	High added value	Medium added value	Low added value	Do not know
Better consumer protection	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better functioning of the single market	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Legal clarity	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Help in addressing cross-border problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your responses:

Other questions

Question 15: Any other issues

Are there any other issues not covered by the above questions that you feel might require action at EU level? What would be your preferred solution to the identified issue?

Please feel free to upload a concise document, such as additional evidence supporting your responses or a position paper. The maximum file size is 1MB.

The uploaded document will be published alongside your response to the questionnaire. Please note that your answers to the questionnaire form the key part of your contribution to this consultation. You should regard any supporting document you attach as an optional extra serving as additional background reading to make your position clearer.

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

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