

RIA on Law on Consumer Protection

Ministry of Economy and Sustainable Development
of Georgia

RIA Content

- Problem Definition
- Setting Objectives
- Identification of Options
- Analysis of Impacts
- Comparison of Options
- Monitoring and Evaluation
- Consultation and Data Gathering

Problem Definition (1)

- Harmonization with EU Consumer Rights Directive (2011/83) and additional provisions
- Right to withdraw from contracts in on-premises sales within 7 days
- Right to withdraw from contracts in distance and off-premises sales within 14 days
- Consumer Ombudsman

Problem Definition (2)

- Consumer detriment, expressed as losses of ending with good or services consumers do not need
- Caused by asymmetry of information and high-pressure sales:
 - Extent to which consumers are allowed to inspect the product
 - Extent to which consumers are not subject to psychological pressure

Setting Objectives

- Reduce consumer detriment
- Increase the extent to which consumers are allowed to inspect goods/contracts
- Decrease the extent to which consumers are subject to psychological pressure of surprise element
- Other indicators of effectiveness
- Costs to adjust contracts
- Costs of familiarization

Identification of Options (1)

Option 1: Do nothing

Option 2: Implementation of the following provisions:

- Right to withdraw from contracts in on-site sales within 7 days
- Right to withdraw from contracts in distance and off-site sales within 14 days
- Obligation of information provision
- Establishing Consumer Ombudsman

Identification of Options (2)

Option 3: Implementation of the Option 2 with the following changes:

- No right to withdraw from contracts in on-site sales within 7 days
- Include exemptions provided in Consumer Rights Directive
- Consumer Ombudsman

Analysis of Impacts (1)

IMPACTS	Option 2	Option 3
SOCIAL		
COSTS		
- Reduced access of consumers to some goods and services	---	-
- Reduced public trust in government	---	-
- Government expenditures related to establishment and operation of the Ombudsman Office	---	-
- Impact on jobs		

Analysis of Impacts (1)

IMPACTS	Option 2	Option 3
SOCIAL		
BENEFITS		
- Reduced consumer detriment (primarily non-financial effects, such as psychological etc.).	+++	+
- Protecting vulnerable groups of consumers against aggressive sales.	++	+
ECONOMIC		
COSTS		
- Increased costs to businesses related to the value of returned products	---	-
- Administrative costs related to returns (return management)	---	-
- Disproportionately negative impact on certain sectors	---	-
- Negative impact on SMEs	---	-
- Impact of minimum threshold under which the obligations of withdrawal rights do not apply	--	-

Analysis of Impacts (1)

IMPACTS	Option 2	Option 3
ECONOMIC		
COSTS		
- Increased prices for some products (some costs to businesses would be passed to consumers through increased prices. In this case, there will be distributional effect as well, consumers who do not return goods incurring some of the costs caused by those who return goods).	---	-
- Moral hazard (opportunistic behavior from the part of the consumers. It is going to be higher in on-site sales as those imply lower costs of return to consumers). Some researchers documented that nearly 20% of all consumers may be buying products with the specific intention of returning them after satisfactory use. This problem of “retail borrowing” or “de-shopping” is an expression of moral hazard on buyer’s side which becomes clearly more prevalent the more generous return rights are.	----	-
- The provisions could raise entry costs to some businesses, as the existing companies will have ready established capacity for management of returns. Moreover, large companies might have better capacity to do so.	----	-
- Increase in informal economy. Right to withdraw from contract, if exercised often, could determine certain businesses to move to informal activity. In case of option 2 this impact would be higher.	----	-
- Impact on state budget revenue.	----	-

Analysis of Impacts (1)

IMPACTS	Option 2	Option 3
ECONOMIC		
BENEFITS		
- Reduced losses for consumers as a result of withdrawal from contract (this would be estimated based on the value of goods returned). This benefit would be enjoyed by those that return goods, including those that would exercise opportunistic behavior. It is going to be higher in on-site sales as those imply lower costs of return to consumers. (Some researchers documented that nearly 20% of all consumers may be buying products with the specific intention of returning them after satisfactory use).	+ + +	+
- Increase in competition, contributing to economic growth and choice for consumers	+ +	+
- Increase in consumer confidence in particular markets and/or sales channel	+ +	+
- Increase in sales as a result of more confident foreign consumers	+ +	+
ENVIRONMENTAL		
No significant environmental impacts are being expected.		

Data for analysis of costs and benefits

- Relevant retail trade (adjusted for food and other products)
- Distance and off-premises trade (GeoStat & other countries)
- Average value of purchase (compared with other countries), based on average value of purchase (above 25GEL)
- Share of returns in on-premises, distance and off-premises sales (discussions with traders, experience of other countries)
- Average salary and average income of household
- No. of relevant active companies

Data for analysis of costs and benefits

- Discount rate – monetary policy rate in Georgia (cost and benefits estimated for 10 years)
- Costs to return goods for consumers (travel costs, post costs, time spent)
- Costs to return goods for businesses (time spent) – comparable to estimates from other countries
- Compliance rate of businesses
- Share of businesses currently allowing for return

Data for analysis of costs and benefits

- Benefits related to return of goods (value of goods) – comparable to estimates from other countries
- Costs related to value of goods returned
- Ombudsman costs (based on cases to be handled – experience of other countries)

Comparison of Options

	Option 2	Option 3
Present value of benefits	1,467,305,564	58,482,674
Present value of costs	1,690,613,849	79,983,845
Net Present Value	-223,307,285	-21,500,172
Other impacts (specific and qualitatively assessed impacts)	Qualitative assessment presented above. Negative impacts are higher in option 2. Benefits for consumers could be higher but can be disproportionate effects on different consumers.	Qualitative assessment presented above. Negative impacts are lower in option 3. Benefits for consumers could be higher but can be disproportionate effects on different consumers.

Monitoring and Evaluation

- Reduce consumer detriment, expressed as losses of ending with a good or services they do not need.
- The causes of asymmetry of information:
 - extend to which consumers were allowed to inspect sufficiently the product
 - extend to which consumers were not subject to psychological pressure or surprise element
- Potential indicators for monitoring the effectiveness of proposed measures:
 - Share of consumers who are aware of their rights
 - Share of cases when consumers did not succeed to withdraw from contract before applying to alternative dispute resolution
 - Share of alternative dispute resolutions solved within the timeframe provided by the law
 - Share of court cases (This is going to inform us about how effective the dispute resolution mechanism is)

Consultation and Data Gathering (1)

- List consulted stakeholders:
- Consultation events (meetings)
- Summary of consultation feedback and the extent it was taken into account
- Sources of evidence used in analysis

Consultation and Data Gathering (2)

Sources of evidence used in analysis:

- Geostat
- Businesses
- Commission Staff Working Document accompanying the proposal for a directive on consumer rights, Impact Assessment Report, Brussels, 30.7.2008, COM(2008)
- Impact Assessment: Final, Implementation of the EU Consumer Rights Directive (2011/83/EU), August 2013, Department for Business, Innovation & Skills, UK
- The Green Book, Appraisal and Evaluation in Central Government, Treasury Guidance, London: TSO, July 2011
- The survey of consumer attitude, EU funded, CSRDG, Georgia, 2015
- EU Guidelines on Impact Assessment (http://ec.europa.eu/smart-regulation/guidelines/ug_chap3_en.htm)
- Cooling-Off Periods from a Law and Economics Perspective, Enkeleda Olldashy and Zamira Xhaferri, Revista Shqiptare per Studime Ligjore, Volumi 2, 2011 (http://www.ajls.org/doc/11_Cooling_Off_Periods_from_a_Law_and_Economics_Perspective_Perspective.pdf)
- Flash Eurobarometer 396, Retailers' attitudes towards cross-border trade and consumer protection, Fieldwork: March – April 2014, Publication: September 2015
- Flash Eurobarometer 397, Consumer attitudes towards cross-border trade and consumer protection, Fieldwork: April 2014, Publication: September 2015
- http://europa.eu/youreurope/citizens/consumers/shopping/guarantees-returns/index_en.htm
- Optimal Sales Contracts with Withdrawal Rights, Daniel Kraemer and Roland Strausz, December 1, 2014
- Why Withdrawal Rights?, Horst Eidenmüller, ERCL 1/2011
- The customer consequences of return in online retailing: An empirical analysis, Griffis, S. E., S. Rao, T. J. Goldsby, and T. T. Niranjan (2012), Journal of Operations, Management 30, 282–294.

Consultation and Data Gathering (3)

Sources of evidence used in analysis:

- Bricks & Clicks": The Impact of Product Returns on the Strategies of Multi-Channel Retailers Elie Ofek, Zsolt Katona and Miklos Sarvary, March, 2010
- The Option Value of Returns: Theory and Empirical Evidence, Eric T. Anderson, Karsten Hansen, Duncan Simester, Marketing Science, Vol. 28, No. 3, May-June 2009, pp. 405-423, ISSN 0732-2399
- Cooling-off periods in Victoria: their use, nature, cost and implications, Research Paper No. 15 January 2009, Consumers Affairs, State of Victoria, Australia
- <https://www.statista.com/outlook/330/100/digital-commerce/worldwide#market-ageGroup>
- http://ec.europa.eu/eurostat/statistics-explained/index.php/E-commerce_statistics_for_individuals
- <https://webgate.ec.europa.eu/odr/main/?event=main.adr.show#> (Dispute resolution bodies in EU)
- http://ec.europa.eu/consumers/consumer_rights/rights-contracts/directive/index_en.htm (accessed on September 28, 2016) (The Directive on Consumer Rights)
- http://www.ecommerceworldwide.com/AcuCustom/Sitename/DAM/002/e-retail_Russia.pdf
- Handbook to assess consumer detriment, EU Commission (http://ec.europa.eu/consumers/consumer_evidence/market_studies/docs/handbook_consumer-detriment.pdf)
- An analysis of the issue of consumer detriment and the most appropriate methodologies to estimate it, Final Report for DG SANCO by Europe Economics, Chancery House, Finalised for publication July 2007
- Consumer Engagement and Detriment Survey 2014, JN121550, Department for Business, Innovation & Skill, UK
- Consumer Appeal Board, Estonia (<http://www.tarbijakaitseamet.ee/en/about-us/annuals>) (Yearbooks of the Estonian Consumer Appeal Board)
- Consumer Rights Protection Centre (Consumer Dispute Resolution Committee), Latvia (http://www.ptac.gov.lv/sites/default/files/ptac_publiciskais_parskats_2015.pdf)
- State Consumer Rights Protection Authority, Lithuania (<http://www.vvtat.lt/index.php?225846438>)
- 2015 Consumer Returns in the Retail Industry, Annual Return Survey, The Retail Equation, US (www.TheRetailEquation.com)