



Viviane REDING

Vice-President of the European Commission
Justice, Fundamental Rights and Citizenship

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Brussels, 21 September 2012

Dear Minister,

I would like to draw your attention to an important case concerning the enforcement of the EU's consumer protection rules.

I am referring to the 900.000 € fine imposed against Apple in December 2011 by the Italian administrative enforcement authorities and confirmed by the Italian courts last May, as well as to the related actions launched since last March by 11 EU consumer organisations against Apple for breach of the requirements of Directive 2005/29/EC on unfair commercial practices in business to consumer transactions and of Directive 1999/44/EC on the sale of consumer goods and associated guarantees. It appeared from this case that, in order to make their own commercial warranties look more attractive, Apple retailers failed to provide consumers with clear, truthful and complete information on the legal guarantee from which they freely benefit under EU law. Similarly misleading information was given on their internet site.

EU law requires traders not to mislead consumers on their right to a free guarantee vis-à-vis the seller for any lack of conformity which exists at the time the goods were delivered, and which becomes apparent within two years as from the delivery of the goods.

Apple prominently advertised that its products come with a one year manufacturer warranty, but failed to clearly indicate the consumers' automatic and free-of-cost entitlement to a minimum 2-year guarantee under EU-law.

*Ms Ana MATO ANDROVER
Ministry for Health, Social Services and Equality
Principe de Vergara 54
28006 Madrid
Spain*

In its recent Consumer Agenda²⁴, the European Commission underlined its intention to ensure an effective enforcement of EU consumer law. Experience has shown a need for much better coordinated enforcement where a recurring problem arises in different Member States.

That is why I am raising this case with you. In this case, Apple retailers have clearly been offering the same commercial guarantees and using the same, misleading marketing techniques in other Member States as well.

These are unacceptable marketing practices and I would encourage your authorities to pay particular attention to this issue when enforcing consumer legislation. My services have already drawn the attention of your representatives in the Consumer Protection Cooperation Network to this important case. In order to ensure that consumers can have confidence that their rights are similarly upheld across the EU, I would ask you to let me know whether your authorities have found evidence of this problem within their jurisdiction, and the actions taken as a result. I am also interested to learn whether you have been concerned by similar marketing practices employed by other companies.

I would also like to take this opportunity to inform you that I will shortly present the first implementation report on the Unfair Commercial Practices Directive, which will highlight problems with cross-border enforcement. I suggest we use this occasion to make the cooperation of EU's enforcement authorities in the area of consumer protection more effective, coherent, and thus better responding to our consumers' needs.

The consumer acquis that the EU has put in place over the last 50 years is a solid one, which ensures a high level of consumer protection and a level playing field for market participants. But only if these rights are properly enforced, also across borders, can consumers and fair traders alike have full confidence in the internal market.

For your information, I am sending the same letter to all twenty-seven Ministers responsible for enforcement of EU consumer protection legislation.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'L' followed by a long, horizontal stroke that tapers to the right.

²⁴ A European Consumer Agenda - Boosting confidence and growth (COM(2012) 225)