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# **ANED Report: The Protection of Consumers with Disabilities in the European Union**

**Prof. Lisa Waddington, Member of ANED Core  
Research Team and European Disability Forum  
Chair in European Disability Law, Maastricht  
University**

# Perspective

- The report sees people with disabilities as active in the market and as exercising power through the market.

## Structure

- Part I: Maps and reviews the protection provided to consumers with disabilities through EU law:
  - General consumer protection legislation
  - Legislation relating to Services of General Interest and Services of General Economic Interest
  - Other Internal Market Legislation
- Part II: Examines the situation in 9 EU MSs and associated countries, based on info. provided by ANED country reporters.
- Part III: Conclusions, reflections and recommendations.

## UN CRPD (1)

- It is important to view protection of consumers with disabilities in light of the UN CRPD.
- The UN CRPD does not specifically refer to consumer protection, but does provide for:
  - the right to non-discrimination and equality, including the right to reasonable accommodation
  - the right to live independently and be included in the community
  - the right to participate in cultural life, recreation, leisure and sport

## UN CRPD (2)

- Article 12: States Parties shall ‘provide access by persons with disabilities to the support they may require in exercising their legal capacity’.
- A key principle reflected throughout the Convention is that persons with disabilities have the right to participate in society on an equal basis with others.

# Consumer Protection and Accessibility

- European Commission will propose a European Accessibility Act next year.
- Consumer protection for consumers with disabilities is a key element of ensuring an accessible market – and it is also an area where the EU has a lot of powers.

# EU Law: general consumer protection legislation (1)

- Main aim of this legislation is to establish common or harmonised standards throughout the EU, and thereby make it easier for companies to operate in an internal market.
- When setting these common rules, the EU legislator also aims to protect consumers.

## EU Law: general consumer protection legislation (2)

- Instruments considered include:
  - The General Product Safety Directive (2001) – sets rules for product safety for consumer products
  - The Unfair Commercial Practices Directive (2005) – harmonised rules to counteract unfair commercial practices
  - The Consumer Rights Directive (2011) – harmonised rules for distance and off-premises contracts



## EU Law: general consumer protection legislation (3)

- EU General Consumer Protection legislation more or less ignores the situation of consumers with disabilities.
- Protection is directed towards the so-called “average” consumer, who is expected to be reasonably well informed, observant and circumspect.

# EU Law: general consumer protection legislation (4)

- EU general Consumer Protection legislation occasionally makes reference to the “particularly vulnerable” consumer.
- Vulnerability results from consumers’ “mental or physical infirmity, age or credulity”.
- EU general consumer protection legislation pays a lot of attention to providing consumers with information, but makes no reference to the need to provide information in disability accessible formats.

## EU Law: general consumer protection legislation (4)

- New instruments in this field seem to have been adopted without taking the UN CRPD into account.
- Consumer Rights Directive refers to consumers who “are particularly vulnerable because of their mental, physical or psychological infirmity, age or credulity”.
- Proposal for a directive on alternative dispute resolution for consumer disputes makes no reference to the need to make dispute resolution available in disability accessible formats, and contains no general non-discrimination clause.

# EU Law: Services of General Economic Interest (SGEIs) (1)

- These are economic services of general importance to everyone and indispensable for welfare. Examples: gas and electricity supply, telecommunications, water supply, broadcasting.
- EU law allows Member States to set certain requirements on SGEIs to ensure that a quality service is available to all.
- On some occasions, EU law sets these rules or requirements directly.

## EU Law: Services of General Economic Interest (2)

- These EU directives are less likely to refer to “vulnerable” consumers in general, but provide for more targeted and specific measures to protect consumers with disabilities.

## EU Law: other internal market instruments

- One example: Medical Products Directive (2001) which requires medicine packaging to be labelled in Braille across the EU.

# Review of Situation in Various European Countries

- Commonalities in terms of complying with EU legislation.
- General distinction between measures which empower people with disabilities as consumers and measures which are more protectionist in nature.
- Empowering measures: enable people with disabilities to operate in the consumer market without additional protection – but may involve making adaptations / accommodations.
- Protectionist measures: provide additional protection to people with disabilities as consumers.

# Examples of measures which empower consumers (1)

- Spain: consumers are entitled to receive information in disability accessible formats under the Law on the Normative Adaptation to the International Convention on the Rights of Persons with Disabilities (Ley 26/2011).
- Spain: the National Consumer Institute undertakes outreach and provides training/ education to persons with disabilities, in cooperation with the Spanish DPOs.



## Examples of measures which empower consumers (2)

- Denmark: as a result of action taken by the Consumer Ombudsman, two major banks have large numbers of ATMs which use speech synthesis.
- UK: consumer protection bodies, such as the Office of Fair Trading and the Citizens Advice Bureau, support consumer claims and complaints made by people with disabilities.

## Examples of measures which empower consumers (3)

- Latvia and the UK: non-discrimination legislation explicitly prohibits discrimination on the ground of disability with regard to access to goods and services.
- Many countries offer free access to telephone directory enquiries services for those people with disabilities who are unable to use the standard sources of information.
- The provision of assistance and support when taking consumer decisions, such as the decision whether to enter into a long term contract or take out a loan.

# Examples of protectionist measures (1)

- Protectionist measures can be appropriate or can be overly protective and stigmatising.
- Spain: some autonomous communities have legislation on consumer protection, which provide “special” treatment or priority to consumers who are in a situation of “inferiority”, “subordination”, “helplessness” or “vulnerability”. The list of people covered by these “special” measures usually included people with disabilities.

## Examples of protectionist measures (2)

- Cyprus: adapted credit agreements for consumers with disabilities. This leads to reduced delays in payments and alteration to the repayment programmes to the advantage of borrowers with disabilities.
- Cyprus: people with disabilities can benefit from a number of measures with regard to telecommunication services, including no connection and no monthly subscription fee for a fixed telephone line, and free calls.

## Examples of protectionist measures (3)

- Hungary: a disabled person who is dependent on certain equipment for the maintenance of life, can have an uninterruptible power supply installed with regard to that piece of equipment.
- In some countries, people with disabilities can receive gas and electricity at lower tariffs or prices than other consumers.
- In general, people who have been fully deprived of their legal capacity are denied the possibility to enter into any kind of contract on their own.

# Questions for Reflection (1)

- What does protecting consumers with disabilities “on an equal basis with others” mean in practice?
- How can consumers with disabilities be empowered to take part in the market? Can you give any examples of good practice?
- How appropriate is it to label consumers with disabilities as “vulnerable” and to provide protection to them as “vulnerable” consumers?

## Questions for Reflection (2)

- When will additional protection for consumers with disabilities be appropriate? Can you give any examples?
- When will additional protection for consumers with disabilities be overly paternalistic or stigmatising? Can you give any examples?