

Public consultation on the targeted revision of EU consumer law directives

Position paper Pearle* - Live Performance Europe

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Introduction

This paper complements the replies of Pearle* to the online questionnaire on the targeted revision of EU consumer law directives, with the aim to highlight issues of interest to the live performance sector.

Pearle* members welcome the opportunity to give input to the Commission's initiative, to identify shortcomings and consider possible ways to improve the current European legislation.

Pearle* has closely monitored legislative proposals in this field and contributed to the review of the Consumer Rights Directive 2011/83/EU.

The paper will focus on issues related to the Consumer Rights Directive and its targeted review, and specifically address three points:

- Information requirements for live performance organisations when selling tickets online
- Transparency of transactions concluded on online platforms and secondary ticketing in the live performance sector
- The exemption from the right of withdrawal for leisure services contracts

1. Information requirement for live performance organisations when selling tickets online

Whilst members of Pearle* acknowledge the principle that consumers shall have all necessary information to make a fully informed choice on an eventual purchase of tickets for a live event (and this includes the total price inclusive of taxes, the costs for using distance payment, information on the delivery of tickets and the performance itself), we would like to highlight the financial impact that the revision of the Consumer Rights Directive had on live performance organisations, due to increased compliance costs (this includes adaptation of online ticket sales and relevant websites as well as training of staff).

New amendments to the rules on pre-contractual information would put another financial burden on organisations in this field.

2. Transparency of transactions concluded on online platforms and secondary ticketing in the live performance sector

In the cultural field, transactions concluded on online platform can get highly problematic when it involves the (illegal) resale of tickets for live events, such as for rock and pop concerts, musicals or opera performances.

This does not only have an economic impact for the live performance sector (money diverted to an illegal secondary ticketing market will not be re-invested in new talents and the sector as a whole). It also has a societal impact as live events should remain accessible for the wider audience and young people.

Some Member States have already taken action and prohibited the resale of tickets for culture and sports events, others introduced new measures in Consumer Rights legislation. For example:

Belgium:	The resale of tickets is prohibited, with the exception for private resale without making a profit.
France:	Resale of tickets is prohibited.
Germany:	Commercial resale of tickets is prohibited. Occasional resale by private persons is allowed.
Italy:	New law criminalises the commercial resale of tickets (fines up to €180,000). Occasional resale by private persons is allowed.
UK:	Apart from football tickets, there is no legal restriction against reselling tickets in the UK. However, the use of bots to purchase tickets was criminalised this year.

However, venues and concert-organisers in these countries report about an aggressive secondary market which sells tickets online for tremendously high prizes to consumers.

This can be explained by the cross-border dimension of illegal ticket sales. Tickets are often harvested with internet bots by online platforms which operate from countries not prohibiting the resale of tickets.

Pearle* therefore calls on the European Commission to further investigate this topic (in the frame of EU consumer rights laws and the e-Commerce Directive) with the aim to propose common action and ensure harmonisation at EU level.

In the context to the public consultation, the EU can aim to increase transparency of transactions concluded on online platforms. In the case of the resale of tickets for live events, the consumer should be fully aware of the identity of the vendor and be informed whether there is a link to the official organizer of an event.

Secondary ticketing platforms should also be obliged to report criminal activity they become aware of in relation to tickets sales to public authorities and event organisers.

Furthermore, anyone reselling tickets should provide clear information about seat location, face value and booking reference of a ticket¹.

The [Independent Review of Consumer Protection Measures Concerning Online Secondary Ticketing Facilities](#) published in the UK in May 2016 refers to a Consumer survey that indicates the lack of consumer knowledge of the role of intermediaries which do not own tickets in which they are transacting. According to the report, one quarter of ticket buyers thought the reseller was an official vendor of the ticket.

3. The exemption from the right of withdrawal for leisure services contracts

In the context of the targeted review of the Consumer Rights Directive, Pearle* would like to take the opportunity to underline the need to maintain the exemption from the right of withdrawal for leisure services contracts, such as the online selling of tickets for performances.

As it is acknowledged in the CRD, the same rules as for goods or products on services which imply a consumption at a specific moment in time cannot be applied. Booking a ticket for a concert or theatre show requires capacity to be set aside for the customer in question. If that customer cancels or simply does not turn up, it doesn't alter the investments, costs and preparations made by these services to welcome a guest. The European legislation guarantees legal certainty for both businesses and consumers alike and implies a proportional responsibility and courtesy from both sides.

Conclusions

Pearle* calls on the European Commission:

- not to re-open the European legal framework on information requirements for traders for the online selling of goods and services in the Consumer Rights Directive 2011/83/EU
- to improve the transparency of transactions concluded on online platforms, especially in the field of secondary ticketing sales online
- further investigate the cross-border dimension of the (illegal) secondary ticketing market and evaluate whether common action at EU level and/or harmonisation of national rules on secondary ticketing can be taken
- to keep the exemption from the right of withdrawal for leisure services contracts, taking into account the specific nature of these services

¹ See measures introduced in the UK with the Digital Economy Bill 2017 and the Consumer Rights Bill 2015 http://www.legco.gov.hk/general/english/library/stay_informed_overseas_policy_updates/secondary_ticketing.pdf

PEARLE* - Live Performance Europe, is the European employers' federation of music and performing arts organisations. Pearle* represents through its members associations the interests of more than 10,000 live performance organisations across Europe (such as theatres, theatre production companies, bands and music ensembles, orchestras, opera houses, ballet, dance companies, festivals, concert venues, producers, promoters, agents, comedy, variété, circus, event suppliers and others). The Live Performance sector is the biggest employer of the cultural industries with over 1,2 million employees.