

Published on 30 January 2019



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DGCCRF's investigation in the electronic communications industry

In November 2018, the *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes* (General Directorate for Competition, Consumer Protection and Frauds) published the results of its investigation concerning compliance with the rules on economic protection of consumers in the electronic communications industry.

The investigation revealed many breaches of French consumer law provisions by investigated operators.

During the investigation it carried out in 2017 with several phone and internet operators, the DGCCRF observed many breaches of the rules governing consumer information.

It found in particular that in certain cases consumers were not delivered the confirmation of their contract on a durable medium or the standard withdrawal form that is supposed to be remitted upon confirmation of the contract.

Misleading commercial practices have also been identified, in particular in relation to the exercise of the withdrawal right by consumers within a 14-day timeline.

As such, one of the inspected operators used as a starting point of the withdrawal period the day of conclusion of the contract whereas as regards mix-purposed contracts that include the delivery of an item (SIM card of box), the starting point of the withdrawal period is the date of delivery of the last of the items provided for

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under the contract.

The DGCCRF also pointed out that consumers are often handed over incomplete contractual documentation.

It noted that the contracts proposed by two inspected operators did not mention the contact details of the mediator for electronic communications, the possibility to sign up for a specific list to avoid cold calling, the ancillary costs not included in the subscription fees and the minimum download rate.

Another operator proposed a single document that served as general terms of sale for both professional dealers and individuals, that did not include the terms and conditions for exercising the right of withdrawal, and that mentioned some prices exclusive of taxes whereas all prices must be inclusive of taxes.

Breaches have also been identified with respect to billing. Two operators did not allow consumers to opt for paper invoices. Consumers were imposed the use of electronic invoicing. This practice is contrary to French legal provisions governing the protection of consumers. Other professional dealers edited invoices without indicating the remaining contract period.

Some of the breaches identified by the DGCCRF resulted in educational or punitive measures (injunction, warning, obligation to ensure compliance, and reports).

The breaches observed by the DGCCRF are quite common. Professional dealers in all industries must ensure that they comply with applicable regulatory obligations with respect to the economic protection of consumers, in particular consumer information.

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