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European Union

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#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and through better information **(first reading)**

- Adoption of the legislative act
- Statements

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#### Statement for the minutes by Austria

Austria can accept this compromise.

It is noted that the amendment to the Unfair Commercial Practices Directive 2005/29/EC will in future prohibit practices associated with misleading environmental claims and sustainability labels which are not certified or which have not been established by a public authority.

In the context of the adoption of the Directive at issue in the present case, Austria would point out that there are significant overlaps with the proposal for a Green Claims Directive<sup>1</sup>, which is being negotiated in parallel. There is still a need for simplification and significant streamlining in that regard. Furthermore, Austria regrets the fact that the European Commission has not yet submitted a new impact assessment despite several requests to that effect, as the baseline situation has now changed and account should be taken of the principles of Better Regulation.

### **Statement of the Slovak Republic**

The Slovak Republic supports the objectives of the proposal, which are to strengthen consumer protection and to empower consumers for the digital and green transition. However, the final agreement introduces numerous new obligations on traders without adequate benefits for consumer protection.

Slovakia welcomes and supports all initiatives that aim at providing clearer and more comprehensive information for consumers so they can make a well-informed purchasing decision. The final agreement introduces a new information requirement under the Consumer Rights Directive, by which traders, using a harmonised graphic format, are obliged to inform consumers about the existence and the details of a commercial guarantee, if relevant, and of the applicable legal guarantee. Slovakia finds this obligation disproportionate and is of the opinion that such information could be provided to the consumers in a less burdensome way.

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<sup>1</sup> COM(2023) 166 final

Slovakia believes that the amendments introduced in the Annex to the Directive on Unfair Commercial Practices are contrary to the philosophy of the Directive, which is supposed to establish a general framework for determining unfair practices of traders. The final agreement introduces several specific provisions, which erode the general nature of the Directive, thus weakening its application as a general legal framework. Moreover, the amendments in the Annex to the Directive cover practices, for which the responsibility lies with the producers and are, in general, beyond the control of the traders. The final agreement lacks the so-called “*subjective element*” that limits traders’ responsibilities to cases where they could be reasonably expected to act in bad faith. The “*subjective element*”, which was introduced in the Council’s mandate, has been deleted during the negotiations with the European Parliament.

Furthermore, the final agreement contains several other provisions that are unclear, will not contribute to a proper implementation of the directives and could potentially lead to further fragmentation of the Internal market.

For the outlined reasons, the Slovak Republic will abstain from voting on the proposal for a Directive as regards empowering consumers for the green transition through better protection against unfair practices and better information.