



European Conference of Fuel Distributors

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ECFD News Release

ECFD welcomes balanced EU Consumer Rights Directive

Brussels – The European Conference of Fuel Distributors (ECFD) welcomes the EU Consumer Rights Directive (CRD) which will enter into force in the European Union on November 22nd 2011. The CRD creates a legislative framework that ensures **European customers get the best and fastest service possible for the delivery of their heating oil.**

ECFD has advocated a particular view with regards to two essential elements of the CRD: the right of withdrawal of distance-and off-premises contracts, and the issue of written confirmation of telephone orders. Further to constructive discussions ECFD has held with the European Commission, Council and Parliament, the three institutions have endorsed ECFD's point of view.

The Right of withdrawal

The CRD identifies heating oil as a product having a "specific nature within the financial markets", recognizing the need for an exemption for fuels from the consumers' right of withdrawal of distance and off-premises contracts. ECFD has raised the point that a prior confirmation of the prize of the fuel is not possible due to fluctuations in the financial markets severely affecting the prize of heating oil.

The current wording of the proposal states that the exemption from the right of withdrawal does not apply to "*the supply of goods or services for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader and which may occur within the withdrawal period*", which heating oil is considered to make part of. Similarly, the European Commission recognizes, that the right of withdrawal should not apply to goods that are "by nature inseparably mixed with other items after delivery", such as fuels or heating oil.

- In practice this means that Consumers are not allowed to withdraw orders of goods that are dependent on market fluctuations, or mixed with other items, such as heating oil.

Written Confirmation of telephone orders

Initial stages of the Commission's proposal granted consumers the right to receive a written confirmation of telephonically conducted orders prior to the delivery of the product. The ECFD raised severe concerns about the proposal, claiming such a confirmation would not be reasonable for the heating oil sector on the basis of the nature of the service. Non-netbound fuels (in particular heating oil) are delivered generally at the request of the consumer and paid upon delivery of the product, and even a few days after.

The average heating oil consumer infrequently has modern communication equipment, such as computer or fax, making written confirmation a difficult exercise. Moreover, the majority of orders are placed during winter time, usually when the storage is empty or quite low, and when the outside temperatures are low. In this view, the consumer requests a heating oil delivery as soon as possible,



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in order not to interrupt heating installations. The consumers thus find this method convenient, and therefore choose to enter into a distance contract over the phone.

At present, the proposal reads: *“The trader shall provide the consumer with confirmation of the contract concluded [...] on a durable medium, in reasonable time after the conclusion of the distance contract, and **at the latest at the time of the delivery of the goods** or before the performance of the service begins, unless the information has already been given to the consumer prior to the conclusion of the distance contract on a durable medium. “*

- The wording implies that a written confirmation of a telephone order by the trader is not necessary prior to delivery of the good, but has to be given at the latest at the time of delivery, on a durable medium such as the delivery note.

Timetable ahead

The Directive enters into force 20 days after its publication in the Official Journal of the EU. Member states then have two years to transpose the Directive into national law.

About ECFD

ECFD represents the interests of 10,000 distributors of petroleum products, including domestic heating oil, kerosene, petrol, diesel, gasoil and liquefied petroleum gases (butane, propane, LPG).