## CONTENTS

Table of Cases	xiii
Table of Legislation	xvii
1. Introduction	1
	9
2. Consumer Law and the Market	
1. Introduction	9
2. Historical Evolution of Consumer Law and Policy	10
2.1. The lack of a consumer law category	11
2.2. Political recognition of the consumer at the international level	12
2.3. Different national models of consumer protection	14
2.4. The notion of the average consumer in EU law	16
3. The European Union's Competence in Consumer Law	18
3.1. The Treaty of Rome	18
3.2. The Single European Act	21
3.3. The Treaty of Maastricht	23
3.4. The Treaty of Amsterdam and the Tobacco Advertising case	26
4. Consumer Policy and the Lisbon Treaty	31
4.1. The full-harmonization trend	31
4.2. The implications for national systems	33
4.3. The citizen consumer and the Charter of Fundamental Rights	37
4.4. The Lisbon Treaty	39
5. Conclusions	43
3. The Evolution of Consumer Protection and Human Rights	45
1. Introduction	45
2. The International Law Context	46
2.1. Consumer protection as a new generation of human rights?	46
2.2. Implicit consumer protection in human rights agreements	49
2.3. The United Nations Guidelines for Consumer Protection	50

		2.4. Debates on human rights	51
		2.5. The impact of international law on consumer protection	53
	3.	Consumer Protection in the EU Charter of Fundamental	
		Rights	54
		3.1. The creation and the aim of the Charter of Fundamental Rights	54
		3.2. The functions of the Charter and its social dimension	56
		3.3. The relevant provisions in the Charter for consumer	
		protection	58
		3.4. The scope and limited application of the Charter	61
		3.5. The difference between rights and principles	63
		3.6. The implications of the Charter and the Lisbon Treaty	65
	4.	The Influence of Constitutional Rights and Principles	68
		4.1. Constitutional consumer law models in selected countries	68
		4.2. The impact of constitutional rights and principles on	
		contracts	71
		4.3. The protection of health and safety	72
		4.4. Consumer codes	75
	5.	Conclusions	75
4. A	B	roader Perspective on Consumer Protection and	
H	ur	nan Rights	77
	1.	Introduction	77
		The Transformed Role of the Consumer	78
		2.1. Changes in markets and regulation	79
		2.2. Changes in consumers, vulnerable groups, and ethical trends	81
		2.3. Adapting consumer law to economic and social changes	83
	3	Freedom, Capabilities, Human Rights, and Procedures	85
	٥,	3.1. Economic efficiency, freedom, and justice	85
		3.2. Substantive freedoms, capability, and ethical demands	89
		3.3. Human rights	93
		3.4. Procedural rights and participation	96
	4	Reassessing EU Consumer Law and Fundamental Rights	98
	1.	4.1. Economic and social dimensions of consumer law	99
·		4.2. Social responsibility and sustainable behaviour	101
		4.3. Procedural rights—a catalogue for consumer law?	104
		4.4. Feasibility and policy implications	106
	5	Conclusions	107
	1	Concludions	10/

5. C	onsumer Protection and Financial Contracts	109
	1. Introduction	109
	2. Financial Consumer Protection and Credit Regulation	110
	2.1. The rise of consumer credit and EU regulation	113
	2.2. The 2008 Credit Agreements Directive and its focus on	
	information	116
	2.3. Responsible lending	119
	2.4. Social justice debates	121
	3. Fundamental Rights, Social Principles, and	
	Non-Discrimination	123
	3.1. The role of the Charter	124
	3.2. Constitutional principles in financial guarantor cases	126
	3.3. Protection of guarantors by the ECJ	128
	3.4. The fundamental right of non-discrimination	130
	4. Financial Capability and Over-Indebtedness	133
	4.1. Corporate responsibility and social banking	134
	4.2. Financial literacy and education	137
	4.3. The 'fresh start' in consumer bankruptcy	140
	5. Conclusions	143
6. E	lectronic Communication, Fundamental	
	ights Conflicts, and Consumer Participation	145
	1. Introduction	145
	2. Liberalization and Universal Services	147
	2.1. Evolution of the current legal framework	148
	2.2. The concept and justification of universal services	150
	2.3. Services of general economic interest in primary law	151
	2.4. Universal services in secondary law	154
	3. Information, Unfair Terms, and Fundamental Rights Conflicts	156
	3.1. Consumer empowerment through information	157
	3.2. Protection from unfair terms and dispute resolution	159
	3.3. Data protection as a human right	160
	3.4. Balancing fundamental rights	162
	3.5. The Scarlet Extended case	164
	4. Consumer Participation	166
	4.1. Participation and representation of consumer interests	167

4.2. The Communications Consumer Panel and EU consultations	168
4.3. Participation and the citizens' initiative after Lisbon	171
5. Conclusions	173
7. Consumers' Access to Justice and Procedural Rights	175
1. Introduction	175
2. Access to Justice as a Human Right	176
2.1 Access to justice barriers	177
2.2. Existing redress mechanisms in the EU	179
2.3. Collective redress mechanisms in Member States	181
2.4. A typology of collective redress cases	183
3. Procedural Consumer Rights	186
3.1. Recent developments in EU law and policy	186
3.2. The principle of effectiveness and EU competences	190
3.3. Developing EU collective redress procedures for consumers	192
3.4. Alternative dispute resolution and fundamental rights	195
3.5. The new legislation on ADR and ODR	199
4. Litigation Funding	202
4.1. The fundamental right to legal aid	202
4.2. Contingency fees	205
4.3. Conditional fee agreements and human rights limitations	206
4.4. Third-party funding and legal expenses insurance	207
4.5. Consumer actions and class proceedings funds	208
5. Conclusions	209
8. Conclusions	211
	-11
Bibliography	217
Index	237