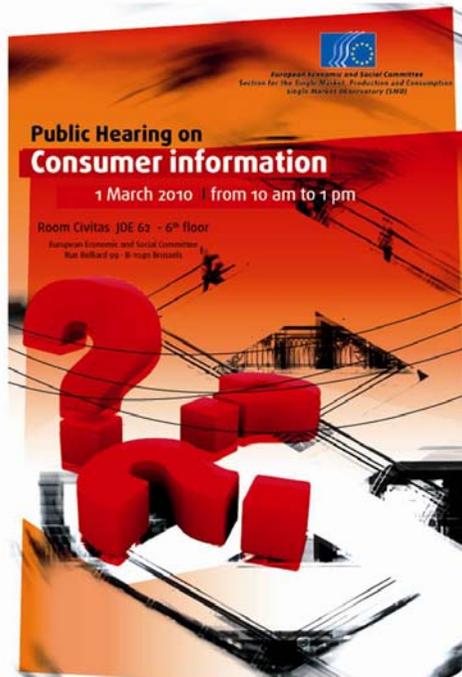




European Economic and Social Committee
Section for the Single Market, Production and Consumption
Single Market Observatory

***Record of the proceedings of the public hearing on
"Consumer Information"***
*held at the European Economic and Social Committee (EESC),
on Monday 1 March 2010*



First part of the hearing - Introductory session

Mr Bryan Cassidy, President of the Section for the *Single Market, Production and Consumption* of the European Economic and Social Committee (EESC), welcomed the participants and briefly presented the work of the Section for the *Single Market, Production and Consumption* (INT) and its *Single Market Observatory* (SMO). The hearing had been organised in preparation for the drafting of the own-initiative opinion.

Mr Jorge Pegado Liz, President of the EESC's *Single Market Observatory* (SMO) and rapporteur for the own-initiative opinion on "*Consumer Information*", highlighted the need for external contributions to ensure that the opinions are drafted in an interactive way and the highest level of quality achieved. He said that the request for an own-initiative opinion on the topic had been tabled well before both the Commission Directive relating to the concept of "*average consumers*" and the Lisbon Treaty had come into force. Consumers today must be able to exercise their right to information, especially in a context of "frantic consumption" that was not compatible with the concept of sustainability, as well as in times of crisis. He added that the SMO advocated a new approach focusing on consumers and no longer solely on the market since consumers should not be considered as economic players but as citizens. This was all the more true in view of the Charter of Fundamental Rights which paved the way for social progress and the achievement of the Single Market.

Mr Pegado Liz called for a rethink of the consumers' right to information topic which should examine whether current Community legislation was adequate, including aspects such as social behaviour and ethics.

Open debate

Mr Mathieu Rouillard, representing the French Barristers Association, referred to chapter 3 of the proposal for a Directive on Consumer Rights (COM (2008) 614)¹ which raised ethical questions for lawyers. He mentioned the withdrawal period of 14 days, which appeared to be inapplicable in French law since it was incompatible with summary proceedings. He also highlighted problems with the Human Rights Convention.

¹ http://ec.europa.eu/consumers/rights/docs/COMM_PDF_COM_2008_0614_F_EN_PROPOSITION_DE_DIRECTIVE.pdf

Mr Rodrigo Gouveia, Secretary-General of EURO COOP, the European Association of Consumer Cooperatives, believed that a debate on this topic was long overdue. He referred to point 5 of the draft opinion drawing attention to the role of civil society and consumers among others in the provision of information. He agreed with the rapporteur that consumers were also citizens and not just economic players. Mr Gouveia supported the idea of providing simpler and more general information than was currently the case, and referred to the proposal for "*food information for consumers*" in the European Commission's draft Regulation². He was also opposed to full harmonisation considering the cultural diversity that existed across the EU and preferred the adoption of guidelines which left enough room for specific cultural and social characteristics and allowed Member States to decide on whether more stringent requirements were needed or not.

Mr Éric Drésin, Secretary for the Food, Beverages and Tobacco sector at the European Federation of the Food, Agriculture and Tourism Trade Unions (EFFAT), raised the issue of workers' health in relation to foodstuffs (see obesity) and the proposal for a Regulation on the provision of food information to consumers (COM (2008) 40)³. In this context he agreed that improving the labelling of foodstuff (e.g. as regards health issues, allergies etc.) was a good move but deplored the fact that the Commission was heading towards a policy that gave preference to quantity over quality. The amount of information provided should be rationalised and not increased. Mr Drésin added that the combination of national (i.e. voluntary) and European (i.e. compulsory) schemes raised questions about cultural differences, food hygiene, and geographic and climatic characteristics. He touched upon the question of traditional products, for which tricoloured labelling would be too simplistic since it would not take the diversity of consumers into account. He concluded his statement by stressing that improving information quality could well mean a reduction in the amount of information provided for the purpose of clarity.

Ms Alison Mooney, European E-Commerce and Mail Order Trade Association (EMOTA), said that transparency was a way to guarantee consumer loyalty. Citing the German Minister of Justice, Ms Leutheusser-Schnarrenberger, she added that information requirements should not be too burdensome on companies.

Mr Abolfazl Beheshti, Vice President of the European Network for Environment and Sustainable Development (ENESD), referred to the moral dimension of quality and the avoidance of risks as regards exports to Third World countries.

Mr Léonard Cox, MEDEF, informed the participants in the hearing that MEDEF had set up a Commission for Consumption in late 2009 which focused on issues such as the quality of products and services (incl. innovation), the relationship between consumers and businesses (responsible communication, customer to business relationship) and dispute resolution mechanisms (especially out of court options). He said that businesses and consumers shared converging interests since satisfaction with products and services would lead to

² http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm

³ http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/proposal_regulation_ep_council.pdf

consumer loyalty and help companies to survive. Mr Cox said that good consumer information was based on coherence between national and European initiatives and that codes of conduct based on economic rules remained necessary. He also insisted on the paramount importance of clear environment-related information.

Mr Thom Van Mierlo, Social and Economic Council of the Netherlands, referred to self-regulatory initiatives and to [the self- and co-regulation database of the Single Market Observatory](#) (SMO) of the European Economic and Social Committee and indicated that in his home country, in consumer-related areas such as advertising, self-regulation was applied. He drew the participants' attention to the existence of a database dedicated to labelling quality in the Netherlands.

Mr Gilles De Halleux, EU Public Affairs Adviser at Test-Achats, said that the basic premise of consumer policies was that consumers must be protected, especially at pre-contractual level, meaning that sanctions would apply in cases where information was not provided. He stressed the importance of independent information in allowing consumers to make the right choice with full knowledge of the facts. He referred to the combination of national and European legislation, which in his or her view had fostered a consumer culture. This involved the main guidelines provided by the European Union and culturally specific provisions at national level. Mr De Halleux said that maximum harmonisation would jeopardise Member State laws. These reflected national characteristics as the case of national provisions concerning services to the elderly illustrated. He also highlighted subsidiarity in this context.

Mr Luc Hendrickx, Director for Enterprise Policy and External Relations at UEAPME, said that consumer information was not an end in itself and that small and medium size enterprises supported basic rights for consumers but that there was a need to define what consumer information was. The basic features of products and services had been assessed in the early seventies. In the meantime though consumers' needs had changed. He regretted the fact that the costs and bureaucratic workload which information requirements created for SMEs had not been taken into account, starting with the fact that the standard definitions of information did not necessarily match SME needs.

Regarding consumer information on financial services **Ms Gabriela Diezhandino, Insurers of Europe (CEA)**, said that there was a need for consumer literacy as well as effectiveness of information requirements considering the complexity of the offer available to consumers. These requirements needed a stable basis. Her organisation had set up a "Key Information Checklist" (KIC) which took into account the fact that information could not be standardised across the board.

Ms Anna Bartolini, Professor at the Milan University Institute for Modern Languages (IULM), Italian Consumers Council (CNCU), underlined the essential role of unbiased information as opposed to information provided by companies which served their economic interests.

Mr Jorge Pegado Liz believed that a consensus had been reached by all contributors to this discussion on the Commission's proposal. All of them were apprehensive about maximum harmonisation. He invited the Commission to take into consideration the cultural diversity of Member States as well as the needs of consumers and SMEs in their respective national contexts and not to adopt a generic approach to consumer information. He added that providing too much information risked jeopardising the coherence and quality of information.

Ms Benedicte Federspiel, member of the Single Market Observatory, underlined that the consensus as regards consumer information at a general level was superficial at best and that as far as specific issues were concerned there was no consensus. She agreed that self-regulation would work only if there was genuine co-operation between companies and consumer organisations, one which struck a balance between the interests at stake. She added that only "good" companies would adhere to self-regulation rules and that the enforcement of such alternative initiatives would require regulation.

Ms Ilaria Passarani, Health Department of the BEUC, reminded the participants that her organisation promoted basic rights to information for consumers. She said that high quality information equalled unbiased, transparent, reliable and legible information that was easy to access, effective and meaningful. This would empower consumers and allow them to make the best choice. She concluded by pointing out that the dialogue between BEUC and AIM (see below) had led to a win-win situation for more effective information.

Mr Philip Sheppard, Public Affairs Manager at the European Brands Association (AIM), highlighted the complexity of mandatory information requirements and drew attention in this context to the discussions that had taken place between his organisation and the BEUC. The costs of providing information should be proportionate to their usefulness. He informed the participants that a draft report would be submitted soon.

Mr Umberto Burani, member of the Single Market Observatory, referred to the balance that was needed between the obligation to provide information and the consumer's right of choice. He said that the provision of information through unbiased channels was of paramount importance. He also raised the question of consumers' national preference especially in the agricultural sector where incomplete or biased information was used as a way of promoting certain private economic interests.

Mr Andreas Striegnitz, Administrator at the secretariat of the EP Committee for the Internal Market and Consumer Protection (IMCO), sketched out the activities of the European Parliament on the Directive on consumer rights. He explained that the EP report (EP rapporteur: Mr SCHWAB) would be finalised in the summer of 2010 and that the EESC rapporteur, Mr Bernardo Hernández Bataller⁴ would be participating in the relevant IMCO meeting. He queried what the appropriate level of information and harmonisation e.g. "targeted full harmonisation", the term used in the EP report, should be. In contrast to the Commission, the European Parliament

⁴ The opinion was adopted on 16 July 2009: http://eescopinions.eesc.europa.eu/EESCopinionDocument.aspx?identifier=ces\int\int464\ces1190-2009_ac.doc&language=EN

believed that not all areas should be fully harmonised. He added that the mistakes that were made with the Consumer Credit Directive should not be repeated and that information overload should be avoided.

Mr Bernardo Hernández Bataller, member of the Single Market Observatory, stressed that the Committee's opinion on consumer rights was critical of the Commission proposal. He also referred to the European Charter of Fundamental Rights. He insisted that pre-contractual information was essential because it allowed consumers to make the right choice and that information – including advertising and contractual clauses - should be truthful in order to build up trust. Information should also be free of charge (e.g. online information) and the burden of proof should lie with the provider of the product or service.

Mr Edwin Calleja, member of the Single Market Observatory, questioned the classification of consumers into categories such as average or vulnerable consumers and highlighted the need for definitions. He added that the complexity of legal clauses increased vulnerability.

Ms Elżbieta Szadzińska, Polish Consumer Federation, member of the EESC, raised the controversial issue of corporate information (e.g. advertising) versus independent information.

Mr Daniel Morrison, European Coalition for Corporate Justice (ECCJ), highlighted the global perspective and referred to issues such as human rights and eco-production in connection with products from third countries. He also drew attention to the importance of disclosing environmental information.

Mr Rodrigo Gouveia believed that information should empower consumers to act on the basis of freedom of choice and raise their awareness of the impact of their choices on the market. In his view, the debate on the concepts of average and vulnerable consumers was less important.

Ms Benedicte Federspiel referred to the Services Directive which had set a minimum standard for consumer rights.

Mr Marek Havrda, for DG Health and Consumers (SANCO) at the European Commission, believed there was a consensus which would ultimately lead to the screening of information to avoid information overload and guarantee that only the essential facts are provided. He believed information channels should be looked at closely and queried whether the European Economic and Social Committee could provide data.

Ms Chloë Smythe, General Manager at the Civil Justice Council, highlighted the importance of educating citizens and consumers, as well as the need to adjust procedures. She insisted on the importance of practical information to guarantee a better understanding.

Mr Ivan Voleš, member of the Single Market Observatory, referred to the 4 specific items of the rapporteur's questionnaire (see below) and asked for clarification as to what kind of detailed information businesses were required to provide and how this compared to the information that was actually needed. .

Mr Luc Hendrickx underlined that businesses were prepared to provide whatever information they were required to, but that a more important question was how to do so. He added that consumer education was essential if the information provided was to be useful. He insisted on the fact that corporate social responsibility was about educating consumers and providing them with proportionate levels of information.

Mr Edgardo Maria Iozia, member of the Single Market Observatory, believed that consumer vulnerability was directly linked to the wide range of financial services on offer. He felt that an information campaign on these services was needed. However, too much information was counter-productive.

Ms Brigitte Castell, lawyer, referred to the fair-play concept that was applied in Germany. The aim was to provide direct information to consumers about insurance services in order to help them avoid having to resort to legal advice or experts. She insisted on information being free of the kind of bias that she believed often existed in the insurance sector.

Ms Ilaria Passarani underlined the fact that information did not simply mean advertising and called for an assessment of consumers' real information needs, adding that pre-contractual information should be standardised.

Mr Ján Oravec, member of the Single Market Observatory, drew the participants' attention to the economic dimension of providing information and consumer protection. He believed that providing information in many languages was an absurd exaggeration (waste of paper and lack of interest) and raised the question of what was truly necessary for public health and safety.

Mr Wauthier Robyns de Schneidauer, member of the Single Market Observatory, highlighted the differences between educated and inexperienced consumers and supported the idea of a more active role for the European Union in consumer education, which currently was largely the responsibility of Member States. He hoped the OECD would set an example in the area of financial services and called for enlightened and independent advice.

Conclusions

Mr Jorge Pegado Liz closed the debate by underlining that consumer protection had been regressing over the last 10 years and that the Committee's opinion sought to reinvigorate the discussion. He also referred to a number of opinions which the Committee had adopted in the past on consumer-related issues, including consumer education⁵.

The rapporteur's questionnaire

1. Why is information necessary?
2. What information should be given to what consumer (the "average"/"vulnerable" consumer)? What is:
 - Desirable/possible?
 - Useful/essential?
 - Excessive/adequate?
3. Timing and form of the information?
4. Who is responsible for informing/assisting/advising?
5. The role of advertising and marketing in information (Directive 2005/29/EC)
6. Is the proposal for a directive on consumer rights satisfactory as regards information relating to contracts (pre-contractual, contractual and post-contractual)?
7. What are the effects of information that is inadequate/erroneous/misleading (burden of proof)?
8. Areas of special interest
 - Foodstuffs,
 - Medicinal products,
 - Financial Services,
 - E-commerce.

⁵ To view these opinions, use the EESC opinion search engine and type the key-word consumer (or consumers): <http://www.eesc.europa.eu/documents/opinions/avis.asp?type=en>

10 key findings

1. Essential role of civil society and consumers, among others, in terms of information. Consumers are to be considered as citizens and not just as economic players;
2. Full harmonisation (including a generic approach to consumer information) runs counter to cultural diversity in the EU - the adoption of guidelines at EU level would leave enough room for specific national, cultural and social characteristics and would allow some Member States to apply more stringent requirements (i.e. subsidiarity);
3. The Commission should not opt for a quantitative approach to consumer information, especially as regards labelling, but instead for a qualitative perspective (i.e. the amount of information should be rationalised and not increased);
4. Information requirements should not be too costly and burdensome for companies, especially SMEs (i.e. proportionality);
5. Codes of conduct for self-regulatory initiatives (as in the case of advertising) would complement necessary regulation;
6. Consumer literacy as well as the effectiveness of information requirements (e.g. unbiased information) are of paramount importance in areas such as financial services;
7. High quality information equals unbiased, transparent, reliable and legible information which is easily accessible, effective and meaningful;
8. "Targeted full harmonisation", as proposed by the EP in its report on consumer rights, would allow a balance to be struck;
9. Concepts such as "average consumers" or "vulnerable consumers" call for clear definitions;
10. Citizens' i.e. consumers' education must go hand-in-hand with information of a practical kind in order to help consumers understand products and services better and avoid solutions of last resort such as redress procedures.

Appendix Photos



Mr J. Pegado Liz, President of the EESC *Single Market Observatory* (SMO) and Rapporteur.



The participants in the public hearing



From left to right: Ms C. Portugal, Rapporteur's expert, Mr J. Pegado Liz, Mr B. Cassidy, President of the Section for the Single Market, Production and Consumption, Mr J.-P. Faure, Head of the secretariat of the SMO, Ms R. Maliti, Administrator at the SMO.



Ms C. Portugal, Rapporteur's expert.