European Consumer Day
Better regulation for consumers

Journée européenne du consommateurs
Une meilleure réglementation pour les consommateurs

10|03|2016 | Room|Salle JDE 62
9:30 - 16:00

European Economic and Social Committee
Comité économique et social européen
Introduction

On 10 March 2016 the European Economic and Social Committee held its 18th European Consumer Day conference in Brussels. This annual event, organised every year since 1999, provides a forum where representatives of EU institutions, national governments and civil society organisations can exchange their views on various problems related to consumer affairs.

This year’s edition focused on the theme “Better Regulation for Consumers?” debating issues such as: Why is it a Commission priority to regulate better and what does it mean in practice for consumers? Do the benefits outweigh the burden? What is the role of public consultation? What needs improving and what is best left alone?

This report brings together the issues raised by the individual speakers, highlighting the key matters debated during the conference. Many questions were asked, most were answered. Sometimes the former is more important than the latter. Better to have an unanswered question than never having asked at all.
Speakers

Georges Dassis, President of the European Economic and Social Committee (EESC)
Věra Jourová, European Commissioner for Justice, Consumers and Gender Equality (video message)
Jean-Eric Paquet, Deputy Secretary-General, European Commission
Petra De Groene, Director, Competition and Consumers, Dutch Ministry of Economic Affairs
Karl-Heinz Lambertz, Vice-President, Committee of the Regions
Monique Goyens, Director-General, BEUC (European Consumer Organisation)
Despina Spanou, Director for Consumers Affairs at the Directorate-General for Justice and Consumers, European Commission
Stephan Huber, Head of Unit, Policy Cycle Unit, European Parliamentary Research Service (EPRS)
Paulo Fonseca, Head of Legal Department, DECO (Portuguese Association for Consumer Protection)
Jacek Barankiewicz, Chair of the Consumer/Marketing Working Group, BUSINESSEUROPE
Mona Bjorklund, Head of Unit, Impact Assessments, Secretariat General, European Commission
Alexia Maniaki, Acting Head of Unit, Ex-Ante Impact Assessment, European Parliamentary Research Service (EPRS)
Marlene ten Ham, Secretary-General, Ecommerce Europe
Martin Siecker, President of the Section for the Single Market, Production and Consumption, EESC

Panel moderators

Evangelia Kekeleki, Member of the Various Interests Group, EESC
Bernd Dittmann, Member of the Employers' Group, EESC

Interactive Debate

Detlef Fechtner, Journalist (moderator)
Paul de Clerck, Better Regulation Watchdog
Kasper Ernest, Director, EU & International Department, Confederation of Danish Entreprise
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| 9.30 a.m.  | **Opening session: Better regulation – what’s in it for consumers?** | ❖ Georges Dassis, President of the European Economic and Social Committee (EESC)  
❖ Věra Jourová, European Commissioner for Justice, Consumers and Gender Equality (video message)  
❖ Petra De Groene, Director, Competition and Consumers, Dutch Ministry of Economic Affairs  
❖ Karl-Heinz Lambertz, First Vice-President, Committee of the Regions  
❖ Jean-Eric Paquet, Deputy Secretary-General, European Commission |
| 10.30 a.m. | **Keynote speech**                         | ❖ Monique Goyens, Director-General, BEUC (European Consumer Organisation) |
| 10.45 a.m. | **Panel 1: Consumers’ legislation REFIT**  | Moderator: Evangelia Kekeleki, Member of the Various Interests Group, EESC  
❖ Despina Spanou, Director for Consumers Affairs at the Directorate-General for Justice and Consumers, European Commission  
❖ Stephan Huber, Head of Unit, Policy Cycle Unit, European Parliamentary Research Service (EPRS)  
❖ Paulo Fonseca, Head of Legal Department, DECO (Portuguese Association for Consumer Protection)  
❖ Jacek Barankiewicz, Chair of Consumer/Marketing Working Group, BUSINESSEUROPE |
| 12.30 p.m. | **Lunch**                                  |                                                                          |
2 p.m.  2.45 p.m.  **Who’s watching whom?**

Moderator: Detlef Fechtner, Journalist

- Paul de Clerck, Better Regulation Watchdog
- Kasper Ernest, Director, EU & International Department, Confederation of Danish Enterprise

- Discussion

2.45 p.m.  4 p.m.  **Panel 2: Assessing the impact of EU legislation on consumers**

Moderator: Bernd Dittmann, Member of the Employers’ Group, EESC

- Mona Bjorklund, Head of Unit, Impact Assessments, Secretariat General, European Commission
- Alexia Maniaki, Acting Head of Unit, Ex-Ante Impact Assessment, European Parliamentary Research Service (EPRS)
- Ursula Pachl, BEUC (European Consumer Organisation)
- Marlene ten Ham, Secretary-General, Ecommerce Europe

- Discussion

4 p.m.  **Closing remarks**

- Martin Siecker, President of the Section for the Single Market, Production and Consumption, EESC
Presentations

European Economic and Social Committee - Georges Dassis

The risk of social exclusion and vulnerability of consumers will rise in the coming years due to the economic crisis. The EESC asks the competent authorities to adopt effective measures to guarantee access to essential products and services as well as the clear protection of consumer rights of those consumers who have been hit hardest by the crisis.

A way needs to be found to avoid consumers being socially excluded, by guaranteeing access to healthcare, health insurance and energy. On the other hand, consumers need to be better informed about the origin and production of the products they buy, using eco-labels, for instance.

Consumer protection also needs to consider the digital economy and e-commerce. We need to act for better protection of personal data.

Regulating better does not mean that the EU will stop regulating. We will remain vigilant to make sure that Better Regulation means simplification and an improvement of European law.

European Commission – Vera Jourová, Jean-Eric Paquet

Better regulation is not about de-regulation. It is there to protect consumers through more consultation and transparent policy-making.

Civil society has the opportunity to check policy-making at any point in its development.

The aim of the REFIT platform and the Fitness Check is for the Commission to find out whether the existing rules are effective, whether consumer law meets its objectives and whether that law boosts consumer trust and empowerment.

The European Consumer Summit in October will further debate these issues.

Both business and consumer organisations are monitoring the EU institutions' work on the subject, each from their own perspective.

The Commission's focus will not be on satisfying purely business needs, although these are important. The overall target is regulation being as efficient as possible, with the least necessary burden helping to ensure it is effective.
EU Council Presidency - Petra De Groene

Better regulation is not about more or less rules, it is about effectively ensuring policy objectives without compromising current levels of protection and sustainability goals.

Future-proof legislation should allow us to remain flexible in order to quickly adapt to change for the benefit of innovation and competitiveness, as well as consumer rights.

The Netherlands is a proponent of the so-called goal-oriented legislation. In order to improve the development of regulation policy law makers should start with the idea behind the rule: its goal. This should be more important than the exact steps leading to that goal.

Committee of the Regions - Karl-Heinz Lambertz

Consumer policy is quite an old policy in many countries in Europe but it is now facing major challenges. It is more important than ever to engage in correct consumer protection.

Better regulation is at the heart of the EU decision-making process. This is a fundamental issue if we want to be successful in the major task of aligning the EU with its citizens. In order to regulate better, principles are needed but this needs to be converted into reality. The digital revolution has encouraged companies to sell their products on the internet and has increased consumer confidence in cross-border online traffic. At the same time, geo-blocking is a clear barrier to consumer rights and is closely linked to better regulation.

Europe’s regions need to be involved in better regulation just like civil society. The quality of legislation depends on the contribution of all stakeholders and we must remain vigilant to avoid a race to the bottom.

The Committee of the Regions will be issuing an Opinion in the Autumn.
Better Regulation is, in itself, a huge bureaucratic machine. The current consultation process is moving in the wrong direction with a unilateral focus on business, creating a major risk of weakening consumer protection.

We have observed disincentives for Member States to adopt higher standards or to exploit regulatory options in favour of consumers.

Too much consultation kills consultation. Corporate interests are over-represented and only those with resources can keep up. Corrective measures need to be provided.

Although REFIT is an important element of the Better Regulation agenda, several concerns remain: a business-oriented methodology; the need to look at long-term costs for society, not just short-term costs to business; quantitative regulatory burden reduction targets.

The minimum harmonisation approach in the EU has been a success story for consumers. Its advantages have to be measured against the benefits of maximum harmonisation.

There needs to be better monitoring of better regulation initiatives. One example of this is the Better Regulation Watchdog, which is made up of 50 public interest organisations (www.betterregwatch.eu).

The institutions should focus more on designing rules that can be effectively enforced.
European Commission - DG Justice & Consumers - Despina Spanou

A Fitness Check is a comprehensive, evidence-based policy evaluation. It assesses whether EU legislation is "fit-for-purpose".

The Fitness Check of EU consumer and marketing law covers 6 directives. In parallel, the evaluation of the Consumer Rights Directive is taking place and will feed into the Fitness Check. It provides a basis for future policy considerations based on:

- 5 criteria (effectiveness, efficiency, relevance, EU added value and coherence)
  - 3 perspectives (consumers, businesses (SMEs) and enforcement authorities)

The Commission will be organising a public consultation in Spring 2016 and a European Consumer Summit in Autumn 2016.

The Commission report on the Fitness Check is expected in Spring 2017.

Some reflections at this stage (see slides discussed during Ms Spanou's Presentation):

- Is there a case to simplify/streamline the consumer information requirements in 3 of the consumer directives?
- Investigating the need to strengthen protection from unfair commercial practices, for example through individual remedies?
- Strengthening the Unfair Contracts directive: should a blacklist be created?

We really count on you to contribute to the upcoming public consultation.

For more information:

http://ec.europa.eu/consumers/consumer_rights/review
**European Parliament Research Services - Stephan Huber**

The European Parliament's Directorate for Impact Assessment and European Added Value

The European Parliament has a strong interest in knowing how far legislation has produced the intended effects and where improvements could be made. In 2003, the Inter-institutional Agreement on Better Law-making introduced the idea of considering the effects of policy proposals in their economic, social and environmental dimensions, simplifying and improving the regulatory environment in the EU. Subsequently, the 2011 EP (Niebler) report on Guaranteeing independent impact assessments called for the “creation of an autonomous impact assessment structure for the European Parliament”. As a consequence, the Directorate for Impact assessment and European Added Value was created in order to identify, quantify and justify the EP’s general policy priorities. In November 2013, the Directorate became part of the newly-created European Parliamentary Research Service (DG EPRS) and comprises nowadays various units dealing with ex-ante impact assessment, ex-post evaluation and European added value.

Obtaining consumer information is a major challenge. The various networks and fora uniting consumers and consumer associations can, therefore, be a very valuable source in this context. The new Inter-Institutional Agreement on Better Law-making voted in the EP on 9 March 2016 provides a modernised framework for the EP, the Commission and the Council to intensify and coordinate their efforts supporting knowledge based policy making.

**BUSINESSEUROPE - Jacek Barankiewicz**

Better Regulation is good for business

The Business community welcomes the REFIT exercise for consumer legislation. This is a particularly highly-regulated area for business. A ‘helicopter view’ of efficiency, coherence and relevance of these rules has, so far, been missing.

Although the misleading advertisement directive is now part of the REFIT exercise we should not mix business-to-consumer with business-to-business relations in the other directives under scrutiny.

It is regrettable that the Consumer Rights Directive is not included in this exercise. This is a missed opportunity given the importance of its rules within business-to-consumer transactions (for example, information requirements, withdrawal, delivery, liability).

There are other areas which have been excluded from the Consumer REFIT programme and which should be examined from a better regulation perspective: data protection regulation and digital contract proposals.
The REFIT Programme should modernise legislation in order to increase consumer protection levels and guarantee that existing legislation is efficient and effective for consumers, traders, redress mechanisms and National Regulatory Authorities.

It should take into account the need to strengthen enforcement in all Member States and should address areas in which there is a clear advantage to be gained by increasing the level of consumer protection, for example in the case of remedies.

It should also ensure a clear interplay between cross-sectoral and sectoral legislation, avoiding inconsistencies and overlaps.
The Debate

Business & Consumers monitoring Better Regulation:

Who's watching whom?

Kasper Ernest
Confederation of Danish Industries

Detlef Fechtner
Moderator

Paul de Clerck
Better Regulation Watchdog
Questions debated during the Debate

Paul De Clerck (BRW): Cutting business costs is not a Better Regulation priority for citizens. The main issues for the BRW are:

i. achieving the law's primary objectives should be considered paramount. For example, for consumer law, it is consumer protection.
ii. impact assessments: these should be about how best to protect public interest. Right now, if it is considered too costly for business, it is scrapped.
iii. the European Commission needs to listen in equal measure to civil society and business lobbyists.
iv. the Commission needs to present proposals that protect public interest.

Who is the BRW watching?

Mainly the European Commission, but because of the new Inter-institutional Agreement on Better Law-making, it is now lobbying the European Parliament too. The driving force is still the Commission, but Member States are very active too, e.g. the recent call for Better Regulation made by UK PM Cameron.

Does the Commission support the BRW?

Paul de Clerck: We do have access, but there is a strong imbalance between civil society access and that for business lobbyists. More resources are needed to monitor the Better Regulation process. There are a lot less proposals coming from the Commission but more in the form of packages. In general, civil society lacks the resources required to monitor these packages.

Kasper Ernest: Business is also part of civil society. Business watches all institutions and policymakers for the consequences for business.

At which point in the legislative process do you step in?

Kasper Ernest: As early as possible, in order to present our views. We believe that Better Regulation is a smarter way to reach the same goals. With regard to REFIT, political issues should be excluded.

Most legislation is targeted towards businesses: they are the ones that have to apply the regulations.

What are the main issues for the BRW and for Business?

Paul de Clerck: The two main priorities for the BRW are: a) the TTIP negotiations and b) climate change: a strong push is needed to phase out fossil fuels.

Kasper Ernest: For Business, the main priorities are: VAT – more companies need to be pay this tax, as there are lots of businesses that are exempt and cross-border trade is increasing. The administrative burden can be reduced through the reciprocity principle. This means businesses will not have to keep giving the same information over and over. Legislative uncertainty creates an administrative burden. Therefore, Better Regulation is a key priority for business.

Why isn’t there a Business Watchdog at European level?

Kasper Ernest: This is due to diverging interests on the Business side but we are all watching, because it is being applied to business.
Mona Bjorklund

The Commission's approach to impact assessments and consultations

Better Regulation is a method to help develop legislation that delivers objectives in an effective and efficient way. It is NOT about weakening consumer protection, social or environmental standards or replacing political decisions.

It is applied through all the stages of the policy cycle: from roadmaps, to impact assessments, to evaluations, with recurring opportunities for stakeholder input. Stakeholder consultations are now done in a more structured way, supported by new consultation guidelines, consultation strategies and inter-service involvement. Consultation strategies can involve different ways and means to reach out through open, public and targeted consultations and other channels (online feedback, Lighten the Load website, the REFIT platform). Consultation results must be presented in the Impact Assessment report.

On evidence-based policy: there is no Impact Assessment without evidence. And no evidence without consultation. Civil society's input is not a "nice to have" but a MUST for Better Regulation.

Alexia Maniaki

Parliament's impact assessment activities and civil society

Public and stakeholder consultations and impact assessments are essential to transparent and well-informed decision-making. In order to improve the quality of legislation, relevant stakeholders should be consulted at an early stage.

As far as stakeholder consultation is concerned, Impact Assessments should focus on identifying who is affected and how, reporting on the consultation process, presenting the positions expressed by the consulted parties and stating whether any options supported by the consulting parties were ruled out.

The value and quality of the consultation depend on how the questions are formulated, the subject and the stage in the Impact Assessment process, who is consulted and who replies.

From now on all Commission Impact Assessments must include a compulsory annex summarising the results of the stakeholder consultation and provide details of how the consultation was carried out, who was consulted and what the consultation was about. The EP's Ex-Ante Impact Assessment Unit pays particular attention to all the above aspects of stakeholder consultation in its 'initial appraisals' of the quality of the Commission's Impact Assessments.
Marlene ten Ham

*The online economy: passive observer or activist shareholder?*

E-commerce Europe's mission is to unlock the potential of cross-border e-commerce in Europe. In their view, consumers and traders are BOTH activist shareholders.

Better Regulation can tackle barriers to cross-border e-commerce in three ways: through more harmonized legal frameworks in the EU, improved and more transparent logistics and distribution, and harmonized and simplified tax systems. Better Regulation needs to address fragmented consumer and contract law across the EU and simplify rules for both consumers and traders.

Follow-up

The European Commission has been invited to request an exploratory opinion.

The Commission will be organising a European Consumer Summit in Autumn 2016 and EESC members should be participating.