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European Consumer Commission

## **"Consumer Rights"**

*Check Against Delivery*  
*Seul le texte prononcé fait foi*  
*Es gilt das gesprochene Wort*

Ceremony of the 10th Anniversary of the European Consumer Day

EESC Consumer Day

**Brussels, 13 March 2009**

## Introduction

As we have assembled here today on the occasion of the International Consumer Day, we cannot ignore the increasingly precarious situation that many consumers across Europe are facing as a result of the global economic downturn.

This is the worst economic crisis to have hit Europe since the 1930s. The impact on our fellow citizens can be dramatic – jobs are being lost, and some have to leave their homes as they can no longer pay their mortgages.

Some may argue that, in this dire situation, consumer policy is a luxury that business and government can ill afford.

They are wrong.

Now more than ever, there is a need for strong policies to support consumers who have less disposable income.

Cross-border shopping may well become a more tempting alternative for consumers in a situation where tighter household budgets force them to be more on the look-out for attractive offers.

At the same time, now that many European businesses are struggling, we need to create an environment which will encourage them to sell their products in other countries.

For businesses and consumers alike, confidence in the internal market will be crucial to decisions to sell and buy online.

This is where my proposal for a new Directive on consumer rights comes in – but I will come back to this a little later.

## Advances in EU consumer policy in 2008

Let me first briefly outline the main achievements in EU consumer policy during the past year, which all contribute to the realisation of my vision of empowered consumers.

In my view, consumer policy should provide consumers with the tools and the confidence they need in order to maximise their welfare. My initiatives have all been developed with that overarching goal in mind.

Empowering consumers requires a thorough understanding how the internal market works for them in practice. This is where the Consumer Markets Scoreboard comes in.

The central purpose of this tool is to make the market more transparent and accountable to citizens. It does so by measuring key indicators such as the degree of satisfaction of consumers, the prices they pay or the choices they have.

The second Scoreboard, which was published recently, shows that three areas of services which really matter to people – energy, banking and transport – are causing the most problems for consumers. These are clearly areas on which we will have to focus in the years to come.

The Consumer Rights proposal was not the only legislative breakthrough of last year. The new Consumer Credit Directive was adopted at the beginning of the year, providing for standardised and comparable pre-contractual information which will make the comparison of credit offers easier for consumers.

Furthermore, the new Timeshare Directive will ensure that consumers are not only protected when they buy classical timeshare, but also when signing up to holiday clubs or when reselling or exchanging their timeshare rights.

I also strive to ensure that consumer rights are properly integrated in the policies of my fellow Commissioners. Last year, such integration contributed, in particular, to initiatives in the financial services field and to revised regulatory frameworks on energy and telecoms.

I am very conscious of the fact that legislation is meaningless if not properly enforced. This is why I have continued to ensure that enforcement in specific sectors is co-ordinated at EU level.

The airline sweep carried out in 2007 has been followed up with a check-list of 30 points with which websites selling airline tickets have to comply. Later this year, the Commission will conduct a survey to see to what extent this check-list, which was drawn up in cooperation with the airline industry, has improved compliance.

In addition to this, a sweep on mobile phone services was carried out, showing that 80 % of websites selling ringtones and similar services could be in breach of EU rules. As a result, a number of sites were subject to enforcement action and we again talked to industry (in this case, the network providers) to look at ways in which the situation could be improved.

Consumers whose rights have been infringed need sound and practical mechanisms to obtain redress. However, consumers are currently facing barriers when they wish to pursue a case, in terms of access, effectiveness and affordability.

I have therefore launched a consultation through the Green Paper on Collective Redress, which looks at several options for tackling situations where many consumers have been victims of one single trader's malpractice.

The safety of European consumers, and in particular of children, is never far from my thoughts. The monitoring of product safety is improving – the increase of RAPEX notifications last year shows that Member States' surveillance is improving year on year and that European consumers are protected better than ever before.

Furthermore, I have worked together with the USA and China to improve co-operation and the exchange of information. Co-operation at an international level is important to be able to deal with safety hazards of products at source and to explore the convergence of standards.

In this context, I would in particular highlight our US counterpart's decision to provide Europe with warnings of product recalls signalled to the American authorities and the Memorandum of Understanding signed with China, which will allow us to raise standards and effectively monitor results.

## **Consumer Rights**

I will now turn to the main topic of today's discussion – the proposal for a new Directive on Consumer Rights.

My aim with this proposal is to have better prices and more choice for consumers and households with a modern set of consumer rights, based on a truly high level of protection. In times of economic difficulties we need healthy markets with sound consumer rules.

Over the last five months there has been a considerable amount of debate about the Consumer Rights Directive – and I have been listening very carefully.

This is not a trade off between a high level of consumer protection and a consumer market.

We want to ensure a high level of consumer rights across the 27 Member States, but at the same time we should not underestimate the significance of the benefits that a real consumer internal market can bring to every household.

- For those who think that prices do not matter for consumers: THINK AGAIN;
- For those who think that more choice is optional for consumers: THINK AGAIN;
- For those who think that the internal market is a luxury in these times of crisis: THINK AGAIN.
- This Directive does not prevent Member States from extending the scope of the Directive to B2B transactions or transactions with non-profit organisations. Member States would remain free to regulate those aspects which are outside the scope of the Directive;
- This Directive does not prevent Member States from enforcing bans on unsolicited telephone calls. Member States would still be able to enforce them by all effective means, such as fines or the nullity of contract;
- This Directive does not force Member States to give up their general contract law remedies in the case of faulty goods, for example the right to reject faulty goods in the UK or the latent defect guarantee in France or in Belgium;
- This Directive does not oblige Member States to give up their legal guarantees on services, such as construction services or digital services.

I regret that recent discussions on this proposal seem to have neglected the fact that there would be substantial new consumer rights and that existing rights would be reinforced for European consumers. For example, consumers would have:

- more rights on delivery. Consumers will be protected against the risk of loss or damage until they are actually in possession of the goods;
- an end to hidden charges. If consumers are not informed upfront about additional charges for delivery they will not have to pay them;
- a longer 14 day cooling off period for both distance and off-premises contracts;
- for the first time an EU ban on pre-ticked boxes;
- further protection for all off-premises contracts, no matter what the value of the transaction is;
- consumers will be able to withdraw from a distance contract by sending a simple e-mail or a manuscript letter, which can be drafted in the consumer's own words;
- new rules for on-line contracts – for example if you conclude a contract on e-bay you should disclose that you are a trader and not a consumer.

Thanks to a new set of uniform European rights, we would be able to launch pan-European campaigns on "knowing your rights at the point of sale" similar to the ones that already exist for air passengers' rights.

Some concerns have been raised about the scope of this proposal, for example the fact that it does not address contracts for the delivery of digital content (such as music or software). I am strongly committed to enhancing the protection of digital consumers. I am working hard on this, but it is clear that the identification of problems and answers in this field needs more time.

I am therefore launching a study to be able to better determine the detriment consumers are facing in this area and what the possible solutions could be.

In the light of meetings with consumer organisations, groups of experts, national authorities and other stakeholders, I recognise that in some Member States there are understandable and legitimate concerns about important issues.

I identify the following as amongst the most serious:

- Is the two year guarantee period long enough?
- Is the six months during which the burden of proof lies with retailers to demonstrate that their product was not defective fair for consumers?
- Is the order of the remedies in the proposed directive the right one?
- Should there not be more contract terms on the "black list" in the Annex?

I am ready to work further on these questions. It may be that certain consumer rights need to be reinforced.

But I am **not prepared to compromise** on the principle of having a single set of rules which would apply to all businesses and all European consumers, from the shop across the street to the computer screen. **I will not compromise on having a single market for citizens.**

Now more than ever we need markets which function efficiently; markets that give businesses the stability they need; markets which allow consumers to buy the goods they need, where and when they need them, at the right price.

All of us, in this period of economic crisis, have a duty to rebuild public confidence and contribute to economic recovery.

A healthy market needs strong regulation, effective redress and rigorous enforcement. More harmonised and better coordinated rules will facilitate enforcement and redress.

Those of us who are fortunate enough still to have jobs are cutting back on our spending. Those who have lost their jobs are forced to cut back even further.

If ever there was a time when consumers needed the reassurance of knowing that what they are buying is fit for its purpose, value for money and will arrive on time: **it is now**. And **now** is the time for the European legislator to deliver that assurance.

History teaches us that if we all shut up shop, close our doors and stay at home, if we buy nothing from anybody and sell nothing to anybody, the recession will be longer and deeper rather than shorter and less severe. Europe must be open for business or it will be out of business.

I will listen very carefully to all concerns and I will take good note of the criticisms. I hope that everyone will look at this proposal with an open mind and with a European eye.

I can assure you that the Commission will be open too for constructive comments if they are based on sound evidence.

It is my strong belief that a single set of rules and the optimum level of consumer protection can only go hand in hand.

I am confident that in the negotiations Parliament and Council will strike the right balance, thus serving our European consumers and citizens for many years to come.

Thank you.