



10 April 2007

Public Hearing of the EP Committee on the Internal Market and Consumer Protection on “the Review of the EU consumer acquis”

SESSION 2: EUROPEAN CONSUMER ACQUIS – THE WAY FORWARD

BUSINESSEUROPE, representing 39 national employers and business federations from 33 countries, welcomes the public debate launched by the Green Paper on the review and the future of the regulatory framework in consumer policy.

It is important that Members of IMCO bear in mind some essential objectives of the debate before deciding the “way forward” as part of the review exercise.

I. “Better regulation” as a framework

1. A clear and understandable regulatory environment is essential for legal certainty and consumer protection. In order to preserve the stability of this environment, it is important that we know where we are going and want to go with this review exercise.
2. The review is an important test case for practical implementation of the commitments made by the three EU Institutions to deliver better regulation. This is why we consider that the basis and objectives of this debate must be clear and agreed from the outset before any proposals are tabled. Questions concerning the justification for the review, its objectives and simplification effects, the link with the common frame of reference in European contract law (CFR) and with other Community legislation need to be answered before we move forward.
3. The Consumer Strategy 2007-2013 states that any proposals relevant to the acquis review would also represent the first outcomes of the Commission's work on a common frame of reference for European contract law. BUSINESSEUROPE recalls that the legal nature of the CFR has to be clarified without delay. European businesses are firmly opposed to development of a harmonised European civil code. Thus, before any proposals are made regarding the acquis review, the objective of the CFR has to be clarified.



4. On the justification for the review, we consider that the case for the proposed overhaul of the consumer acquis is not fully made. The green paper fails to provide adequate evidence about existing gaps in consumer protection. Specific difficulties must be identified. This information is essential in order to deliver the right regulatory environment and look for the best instruments to address the problems, be they legislative or non-legislative. Clarity and predictability of the legal framework is necessary for businesses and consumers. Thus, change must be fully justified and supported by impact assessments with a genuine economic component.
5. On regulatory simplification, the Commission, after the consultation phase, should present a comprehensive plan addressing the key factors for achieving the consolidation, streamlining and simplification of the consumer acquis. In particular, it should provide clear and detailed information on the simplification effects (legislation to be modified, repealed, etc) of the action envisaged at both EU and national level.
6. On coherence and compatibility with other Community legislation, the impact that consumer policy proposals may have on other Community legislation must be thoroughly assessed before any decision is taken. The Commission, as the main guardian of the treaties and hence also of Internal Market principles and legislation, should ensure that there are no contradictions between proposals and that the well-functioning of the Internal Market is not at risk. New proposals must not put at risk the objectives and the good implementation of other existing legislation. Examples: e-commerce, financial services or the Community rules on the conflicts of laws (Rome I and Rome II).

II. Consumers and businesses, partners for the well-functioning of the Internal Market

7. As provided in the EU Treaty and reiterated in the new Consumer Strategy 2007-2013, consumer policy must be understood in the context of the Internal Market which is the cornerstone of EU's welfare and prosperity. This is why the right balance between the competitiveness of enterprises and an appropriate level of consumer protection should be sought when any consumer protection proposals are adopted.
8. The Internal Market does not exist for business or for consumers alone; the EU internal market has been planned and has delivered benefits for both consumers and companies. They are partners within the Internal



Market. Their interests are compatible and must be taken into account in Internal Market policy-making.

9. On the level of protection, not to be confused with the debate on minimum vs. full harmonisation, the degree means the way in which the rights and obligations of consumers and companies are regulated. A "high level of consumer protection" is a concept that has to be interpreted case by case. "High" should not be construed to mean "the more restrictions on companies, the better". Overregulation is counterproductive, and not in the interest of either consumers or business.
10. Within this Internal Market, it is essential to bear in mind that the concept of "consumer" must refer to the rights and obligations of the consumer, who is usually a worker, an active and responsible player on this market.

III. Proposal: give priority to effective enforcement of the existing rules

11. The issue of good enforcement of existing rules must be regarded as a priority before we can take a definitive stance in this debate. This issue is essential for companies in order to prevent and check any distortion of competition between good players who respect the rules and bad players who break them with impunity, but also and above all for consumers who are not effectively protected in practice in such cases. Thus, it is essential not to decouple the legal environment from practical reality.
12. The European institutions must therefore focus on more effective enforcement of existing regulations, including better transposition in order to deliver consumer protection. In this regard, market supervision needs to be improved.
13. BUSINESSSEUROPE considers that only if adequate guarantees and answers are given to the above questions will we be able to make an informed choice about the best option that will realise genuine harmonisation in this field
14. Hence, we remain open and willing to take part actively in the current debate.