Strengthening the rights of vulnerable consumers

European Parliament resolution of 22 May 2012 on a strategy for strengthening the rights of vulnerable consumers (2011/2272(INI))

The European Parliament,


– having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)⁴,


– having regard to Directive 2004/113/EC of the Council of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services⁶,

² OJ L 304, 22.11.2011, p. 64
having regard to its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020,\(^1\);

having regard to the Charter of Fundamental Rights of the European Union, as incorporated into the Treaties by Article 6 of the Treaty on European Union (TEU), and in particular Article 7 (respect for private and family life), Article 21 (non-discrimination), Article 24 (the rights of the child), Article 25 (the rights of the elderly), Article 26 (integration of persons with disabilities) and Article 38 (consumer protection) thereof,

having regard to Article 12 of the Treaty on the Functioning of the European Union, which stipulates that ‘consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities’,

having regard to Article 9 of the Treaty on the Functioning of the European Union, which stipulates that ‘in defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health’,

having regard to its resolution of 15 November 2011 on a new strategy for consumer policy,\(^2\)

having regard to the Commission communication to the European Council on Europe 2020, a strategy for smart, sustainable and inclusive growth (COM(2010)2020),

having regard to its resolution of 21 September 2010 on completing the internal market for e-commerce,\(^3\)

having regard to its resolution of 15 December 2010 on the impact of advertising on consumer behaviour,\(^4\)

having regard to the communication from the Commission, of 7 July 2009, to the European Parliament, the Council, to the European Economic and Social Committee and the Committee of the Regions on a harmonised methodology for classifying and reporting consumer complaints and enquiries (COM(2009)0346) and to the accompanying Draft Commission Recommendation (SEC(2009)0949),

having regard to the Commission Staff Working Paper of 7 April 2011 entitled ‘Consumer Empowerment in the EU’ (SEC(2011)0469),


having regard to the Commission communication of 11 March 2011 entitled ‘Consumers at home in the single market’, 5th Edition of the Consumer Conditions Scoreboard

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\(^1\) Texts adopted, P7_TA(2011)0453.

\(^2\) Texts adopted, P7_TA(2011)0491.


having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data,


having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market,

having regard to its resolution of 9 March 2010 on consumer protection,

having regard to its resolution of 9 March 2010 on the Internal Market Scoreboard,

having regard to its resolution of 13 January 2009 on the transposition, implementation and enforcement of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market and Directive 2006/114/EC concerning misleading and comparative advertising,

having regard to its resolution of 3 September 2008 on how marketing and advertising affect equality between women and men,

having regard to Special Eurobarometer No 342 on consumer empowerment,

having regard to the analytical report entitled ‘Attitudes towards cross-border sales and consumer protection’, published by the Commission in March 2010 (Flash Eurobarometer 282),

having regard to the European approach to media literacy in the digital environment,

having regard to the Commission guidelines on the application of the Unfair Commercial Practices Directive (SEC(2009)1666),

having regard to Rule 48 of its Rules of Procedure,

having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0155/2012),

A. whereas promoting consumers’ rights and their protection are core values for developing relevant European Union policies, especially for reinforcing the single market, and for
meeting the Europe 2020 goals,

B. whereas the ambition for EU consumer policy should be a high level of empowerment and protection for every consumer,

C. whereas the single market must also ensure a high level of protection for all consumers, with a special focus on vulnerable consumers in order to take into account their specific needs and strengthen their capabilities,

D. whereas the widely used concept of vulnerable consumers is based on the notion of vulnerability as endogenous, and targets a heterogeneous group comprised of persons who, on a permanent basis, are considered as such because of their mental, physical or psychological disability, age, credulity or gender, and whereas the concept of vulnerable consumers should also include consumers in a situation of vulnerability, meaning consumers who are placed in a state of temporary powerlessness resulting from a gap between their individual state and characteristics on the one hand, and their external environment on the other hand, taking into account criteria such as education, social and financial situation (for example over-indebtedness), access to the internet, etc.; whereas all consumers, at some point in their life, can become vulnerable because of external factors and their interactions with the market or because they have difficulties in accessing and comprehending relevant consumer information and therefore need special protection,

**Vulnerability and vulnerable consumer**

1. Notes that the diversity of vulnerable situations, both when consumers are placed under statutory protection and when they are in a specific situation of sectoral or temporary vulnerability, hinders a uniform approach and the adoption of a comprehensive legislative instrument, which has thus led the existing legislation and policies in place to address the problem of vulnerability on a case-by-case basis; stresses, therefore, that European legislation must address the problem of vulnerability among consumers as a horizontal task, taking into account consumers’ various needs, abilities and circumstances;

2. Stresses that Member States must take appropriate measures to provide adequate guarantees for the protection of vulnerable consumers;

3. Underlines that the strategy for the rights of vulnerable consumers must focus on reinforcing their rights and ensuring that those rights are effectively safeguarded and enforced, as well as providing consumers with all necessary means to ensure that they can take the appropriate decisions and be assertive, irrespective of the instrument used; considers that, as the EU must focus on effectively protecting the rights of all consumers, the notion of an ‘average consumer’ lacks the flexibility needed to adapt to specific cases and sometimes does not correspond to real-life situations;

4. Stresses that a strategy for addressing consumer vulnerability must be proportionate, so as not to restrict individual freedoms and consumer choice;

5. Asks the Commission and encourages the Member States to maintain constant and close analysis of social and consumer behaviour and situations that may place certain groups or individuals in vulnerable situations, for instance by analysing consumer claims, and to put an end to vulnerability through specific measures, where appropriate, to provide protection for all consumers, regardless of ability and at whatever stage of life;
6. Points out that differences still exist between products of the same brand in different Member States, as a result of which consumers in some Member States are less protected; emphasises that the current legal framework does not permit elimination of differences in the quality of products of the same brand in different Member States, and calls on the Commission to supplement the consumer protection legislation accordingly.

Assessment of the current legislative framework


8. Points out that Directive 2011/83/EU on consumer rights, which is the most recent instrument devoted to the protection thereof, strengthens pre-contractual and contractual information requirements, articulating a stronger right of withdrawal when the provider or seller has failed to fulfil his legal obligation to provide the relevant information, and requiring that it be conveyed in a clear and comprehensible manner; considers that appropriate and effective measures should also be taken in sectors not covered by Directive 2011/83/EU and where a particular vulnerability may exist, such as the financial sector or the transportation sector;

Empowerment: consumers’ responsibility in their own protection

9. Considers that the reinforcement of vulnerable consumers’ rights does not only entail a development in the legal corpus and effective enforcement of their rights, but also a strengthening of their capacity to take optimum decisions by themselves; welcomes and strongly supports therefore the Commission’s efforts to promote consumer empowerment through the provision of easily accessible and understandable information and consumer education, as all action in this regard contributes to a more efficient and fair internal market; is nevertheless concerned that this focus may be insufficient to protect vulnerable consumers, since their vulnerability may originate from their difficulty in accessing or assessing the information given to them; asks the Commission to develop a consumer policy for all European consumers and to make sure that vulnerable consumers have access to the same goods and services and are not misled;

10. Notes that many consumers’ vulnerability results precisely from their lack of assertiveness and comprehension of the information they receive or of the options available, or from their lack of awareness of the existing complaint and redress schemes, and that these barriers grow in the case of cross-border consumption and door-to-door sales, including online cross-border commerce;

11. Calls on the EU and the Member States to pay more attention to and invest more in consumer information and education campaigns that target the right messages at the right consumer segment;

12. Calls therefore on the Commission and the Member States to further promote and develop existing initiatives (such as Dolceta, ECC-Net, etc.) while ensuring consistency between them in order to improve consumer information and education;
13. Points out that, in the case of contractual relations, the consumer is frequently the weaker party; calls on businesses to promote and develop self-regulatory initiatives to reinforce the protection of vulnerable consumers’ rights, ensure that they have access to better and clear information and develop practices that enhance all consumers’ capacity to understand and assess an agreement; calls on the competent national authorities to provide incentives in this regard as well as the necessary legal protection for consumers;

**Information and regulation**

14. Asks the Commission and the Member States to better ensure that, in the development of the safety standards and operating conditions for certain products, quality requirements and protection measures are emphasised, and that the need to ensure adequate protection of vulnerable consumers is effectively taken into account; notes that the foreseen use may not address the specific risks that consumers in vulnerable situations might face, in particular regarding the accessibility of visually impaired persons to everyday living products; suggests therefore that the regulation of safety standards and the conditions for certain products take into account, where possible, not only the foreseen use but also the foreseeable use; calls for the future revision of the General Product Safety Directive to take into account these concerns;

15. Asks the Member States and the Commission to devote their efforts to making signage directed at citizens with disabilities accessible, including through standardisation, to make good practices available for companies and encourage their implementation, and to promote, including when European Union resources are used, the provision of information and services by companies in formats accessible to all citizens;

16. Asks the Member States to sign and ratify the Convention of 13 January 2000 on the International Protection of Adults, which applies to the protection in international situations of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests;

17. Calls on the Commission and the Council to consider the reinforcement of the rights of vulnerable consumers as a key priority in the framework of the ongoing review of the proposal for a Regulation on a consumer programme 2014-2020, and of the upcoming publication of the Consumer Agenda;

18. Calls on the Commission to include the dimension of consumers’ vulnerability in the work of the Consumer Scoreboard, for instance by breaking down data by age, education level or socioeconomic factors to have a clearer overview of the needs of vulnerable consumers;

19. Calls on the Commission and the Member States, in accordance with the principles of Corporate Social Responsibility, to offer incentives to companies to establish a system of voluntary labelling of industrial product packaging in Braille (including, for example, the type of product and expiry date, at least), in order to make life easier for visually-impaired consumers;

20. In the same spirit, calls for the Member States and the Commission to promote research and development of goods, services, equipment and facilities, which are universally designed, in other words usable by all people, to the greatest extent possible, without the need for adaptation or specialised design;
Particularly problematic sectors

21. Notes the fact that in international forums the need to protect consumers through information and the regulation of the financial markets has been recognised, the complexity of such markets entailing that any consumer can potentially be vulnerable; notes that such complexity may lead consumers into excessive debt; notes that, according to a recent survey by the Commission, 70% of financial institutions’ and companies’ websites were making basic errors in their advertisements and in the basic required information on the products on offer, while the cost was presented in a misleading way; stresses that more should be done by the financial services industry to provide clear and simple explanations about the nature of the products and services they provide, and calls on all stakeholders to develop effective financial literacy programmes;

22. Calls for information to be better targeted and distributed through all channels, not only official channels but also through consumer organisations and regional, municipal and local offices, which are much closer, more visible and easily accessible to less mobile consumers;

23. Underlines the need for action targeted mainly at vulnerable consumers, both at EU and Member State level, in line with the results of the most recent Eurobarometer showing that under 50% of consumers feel informed and protected; vulnerable groups, in particular, are having difficulty in understanding the choices available to them, are not aware of their rights, are facing more problems and displaying reluctance to act when problems arise;

24. Underlines that children and young people, who increasingly suffer the consequences of sedentariness and obesity, are more sensitive to advertising for food with high fat, salt and sugar content; welcomes self-regulatory initiatives and codes of conducts launched by businesses to limit children and young people’s exposure to food advertising (such as the ones launched in the framework of the Commission’s Platform for Action on Diet, Physical Activity and Health), and calls on all stakeholders to effectively educate and inform children and young people and their caregivers about the importance of balanced nutrition and an active, healthy lifestyle; in this regard, calls for an in-depth analysis by the Commission into whether stricter rules are needed regarding advertising aimed at children and young people; urges the Commission to include the protection of children among the main priorities of the Consumer Agenda, with particular focus on aggressive or misleading TV and online advertising;

25. Calls on the Commission and the Member States to enhance consumers’ awareness regarding product safety, particularly targeting the most vulnerable groups of consumers, such as children and pregnant women;

26. Voices its concern about the impact on vulnerable consumers of the routine use of online behavioural advertising and the development of intrusive online advertising practices, especially through the use of social networks; calls again on the Commission to conduct a detailed analysis of the impact of misleading and aggressive advertising on vulnerable consumers, in particular children and adolescents, by the end of 2012;

27. Highlights the fact that advertisements for financial investment products often fail to sufficiently explain their underlying risks and overemphasise possible benefits that often fail to materialise, thereby exposing consumers of financial services products to loss of their capital; calls on the Commission to introduce stricter advertising standards for sophisticated financial products aimed at retail investors who may not have a good understanding of
28. Considers that children and adolescents are particularly vulnerable to aggressive marketing and advertising; calls on the Commission to conduct a detailed analysis of the impact of misleading and aggressive advertising on vulnerable consumers, in particular children and adolescents;

29. Stresses that children and adolescents are particularly vulnerable regarding the use of communication technologies such as smart phones and games on the internet; considers that protection measures to avoid excessive bills in such circumstances should be put in place;

30. Notes that in spite of existing legislation, consumers still frequently encounter difficulties when travelling and often find themselves in vulnerable situations, especially if their trip is cancelled or delayed, and that these difficulties are exacerbated when the consumer suffers from a disability; calls on the Commission and the Member States to take the necessary measures to ensure better information provision and access to claim procedures regarding, inter alia, passengers’ rights and transparency of fares; asks the Commission, in its planned revision of EU passenger rights legislation, to take into account the situation of vulnerable consumers, especially persons with reduced mobility and disabilities, and to adapt the compensation levels, criteria and mechanisms, while ensuring that current levels are not reduced;

31. Notes that the digitalisation of services may mean that consumers who, for various reasons, cannot access or use the internet could find themselves in a situation of vulnerability, as they cannot take full advantage of the benefits of online commerce and are therefore excluded from a substantial part of the internal market, paying more for the same products or being dependent on assistance from others; calls on the Commission and the Member States to boost consumer confidence while overcoming barriers to cross-border e-commerce through the development of an effective policy which pays special attention to the needs of vulnerable consumers in all measures intended to close the digital divide; calls on the Member States and the Commission to accelerate the delivery of the European Digital Agenda to the benefit of all EU citizens and consumers; stresses that efforts from the community at large and from enterprises in particular should be encouraged in order to inform vulnerable consumers, including senior consumers, and to enable them to take full advantage of the benefits of digitalisation;

32. Underlines that the liberalisation of the main supply markets has increased competition, which can therefore benefit consumers if they are properly informed and able to compare prices and change providers; notes that the lack of transparency in the main supply markets, including in the energy and telecommunication sectors, may have resulted, in some cases, in added difficulty for consumers in general and vulnerable consumers in particular in identifying which tariff is most suited to their needs, in changing providers and in understanding the items billed; calls on the Commission, the Member States and business to take the appropriate measures to ensure that consumers in general and vulnerable consumers in particular have access to clear, understandable and comparable information about fees, conditions and means of redress, and can easily switch providers;

33. Calls on the Commission and the Member States to ensure that the proposal for a Directive on alternative dispute resolution for consumer disputes and the proposal for a Regulation on online dispute resolution for consumer disputes currently under review make it possible for
vulnerable consumers to have effective access to alternative dispute resolution either free of charge or at the lowest cost possible; calls on the Commission to consider appropriate mechanisms to ensure that vulnerable consumers’ needs and rights are adequately taken into account in the context of the potential setting up of a collective redress scheme at EU level;

34. Calls on the Commission and the Member States to collaborate on the adoption of a broad and coherent political and legislative strategy to tackle vulnerability, taking into account the diversity and complexity of all the situations involved;

35. Instructs its President to forward this resolution to the Council and the Commission and to the governments and parliaments of the Member States.