

EUROPEAN PARLIAMENT

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Committee on Legal Affairs

2007/2010(INI)

26.6.2007

OPINION

of the Committee on Legal Affairs

for the Committee on the Internal Market and Consumer Protection

on Green Paper on the Review of the Consumer Acquis
(2007/2010(INI))

Draftswoman: Diana Wallis

PA_NonLeg

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the Commission's Green Paper on Review of the Consumer Acquis, particularly the stated goal of modernising, simplifying and improving the regulatory regime for professionals and consumers;
2. Insists on the linkage between that Review, which will deal with consumer contracts, and the work being carried out on all contract law in general within the continuing process to achieve a Frame of Reference in European contract law (CFR), and therefore stresses that the Review and the work on the CFR need to progress in a complementary way, whilst acknowledging that achieving this linkage should not impede or delay the current Review process;
3. Believes that it is essential to have a clear overall vision of how the various legal and regulatory regimes affecting consumer and commercial law activities at EU level interact and function together, especially the relationship between any instrument produced by the Review and those dealing with conflict-of-law rules (Rome I and Rome II) and others based on the country-of-origin principle (e.g. 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 Market¹ ("the E-commerce Directive"));
4. Believes that it is essential for the Community legislature to take action to eradicate any inconsistencies that exist between the consumer directives under review;
5. Points out that harmonisation should lead to a comparable level of consumer protection in all Member States without unnecessarily harmonising all national arrangements;
6. Suggests that the sectoral directives should be based on the principle of minimum harmonisation, without ruling out the possibility of targeted full harmonisation with respect to certain clear-cut provisions;
7. Welcomes the Commission's proposal for a horizontal instrument and acknowledges the possible advantages of what some have termed a basic 'Consumer Rights' Directive; remains concerned at the level of maximum harmonisation any such approach might lead to and the possible resultant loss of certain national rights;
8. Suggests that cross-cutting provisions of the horizontal instrument should be based on the principle of targeted full harmonisation, in order to ensure legal coherence;
9. Recommends, as regards the non-harmonised areas in the coordinated field, application of the internal market principle of mutual recognition by the inclusion of an internal market clause; this internal market clause would allow for the application of the law of

¹ OJ L 178, 17.7.2000, p. 1.

the economic operator if the applicable consumer law lays down stricter rules and imposes an unjustified barrier to the internal market, an unjustified barrier being one that is not justified by reasons of public policy and public security, the protection of public health or the protection of the environment; states that, for those areas that do not fall within the coordinated field, consumers will benefit from the mandatory provisions of the legislation of their habitual residence as provided for, in particular, by the Rome Convention of 19 June 1980 on the law applicable to contractual obligations;

10. Notes that Annex 1 of the Green Paper contains at points 4 and 5 an extensive list of legal contractual issues relevant to consumer contracts, that some of those issues have already formed part of the work on the CFR and that many are of a highly 'political' nature where were any general rule to form part of a harmonised instrument at EU level, there would need to be extensive (including public) debate and consideration;
11. Considers that both consumer confidence and cross-border trade could be assisted by the development of a 'blue flag' system allowing parties to opt for one of a number of possible EU-approved standard terms and conditions of business, and that more effort could be directed towards such practical solutions.

PROCEDURE

Title	Green Paper on the Review of the Consumer Acquis
Procedure number	2007/2010(INI)
Committee responsible	IMCO
Opinion by Date announced in plenary	JURI
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Diana Wallis 10.4.2007
Previous drafts(wo)man	
Discussed in committee	11.6.2007
Date adopted	25.6.2007
Result of final vote	+: 17 –: 0 0: 0
Members present for the final vote	Bert Doorn, Cristian Dumitrescu, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Othmar Karas, Piia-Noora Kauppi, Klaus-Heiner Lehne, Manuel Medina Ortega, Hartmut Nassauer, Francesco Enrico Speroni
Substitute(s) present for the final vote	Sharon Bowles, Luis de Grandes Pascual, Kurt Lechner, Marie Panayotopoulos-Cassiotou, Gabriele Stauner, József Szájer, Jacques Toubon
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...