CONSUMER POLICY: PRINCIPLES AND INSTRUMENTS

Research carried out for the European Parliament indicates that effective consumer protection policy is essential for an efficient and well-functioning European market\[^1\]. Improved transparency and better informed transactions resulting from well designed and implemented consumer policy result not only in better solutions for consumers but also in improved market efficiency\[^2\]. Effective consumer protection is therefore an essential element of a properly functioning market. It aims to guarantee consumers rights vis-à-vis merchants and in addition to provide enhanced protection for vulnerable consumers. The financial crisis has demonstrated that consumer protections rules have the potential to make markets fairer and improve the quality of competition. Empowering consumers and effectively protecting their safety and economic interests have become essential goals of European policy.

LEGAL BASIS AND OBJECTIVES

Articles 4(2)(f), 12, 114 and 169 of the Treaty on the Functioning of the European Union (TFEU) and Article 38 of the Charter of Fundamental Rights of the European Union.

Article 114 TFEU is the legal basis for harmonisation measures aimed at establishing the internal market. It emphasises the objective of ensuring a high level of protection — including consumer protection — and keeping up with new developments based on scientific facts.

Article 169 TFEU introduced a legal basis for a full range of actions at European level in the area of consumer protection. It stipulates that ‘in order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests’. It also provides for greater consideration to be given to consumer interests in other EU policies. In this sense, Article 169 strengthens Article 114 and broadens its remit beyond single market issues to include access to goods and services, access to the courts, the quality of public services, and certain aspects of nutrition, food, housing and health policy. It also states that EU measures must not prevent any Member State from maintaining or introducing more stringent protective measures as long as they are compatible with the Treaties. As a consequence, consumer policy is part of the Union’s strategic objective of improving the quality of life of its citizens. In addition to direct action to protect rights, the Union ensures that consumer interests are built into EU legislation in all relevant policy areas.

In accordance with Article 12 TFEU, consumer protection requirements must be taken into account in defining and implementing other Union policies and activities. Article 38 of the


Charter of Fundamental Rights of the European Union reinforces consumer protection by stating that Union policies must ensure a high level of consumer protection.

**ACTIONS**

A. General

The programme of EU action in the field of consumer policy consists, in particular, of: the European Consumer Agenda and the Consumer Programme 2014-2020[^3].

The European Consumer Agenda has several objectives:

— promoting consumer safety: (such as the 2013 Product Safety and Market Surveillance Package, in particular through enhanced product identification and traceability, measures reinforcing safety in the food chain, and new rules in mid-2013 on the safety of cosmetic products);

— enhancing knowledge of consumer rights: (interactive tools have been developed to inform, educate and help consumers fully participate in the single market, such as the Consumer Classroom);

— strengthening the enforcement of consumer rules: (such as coordinated actions against breaches of EU consumer law in the form of checks of websites (sweeps) by networks of national consumer protection authorities; simple, fast and low-cost out-of-court procedures for consumers to seek redress available as a result of the Directive on Alternative Dispute Resolution and the Regulation on On-line Dispute Resolution (2013);

— integrating consumer interests into key sectoral policies: (new legislation in sectors such as telecommunications, digital technologies, energy, transport and food, and new measures to increase transparency and access to retail financial services and facilitate switching of bank accounts);

— empowerment: (the main overall objective of the EU Consumer Policy Strategy as described in the Commission working paper entitled ‘Consumer Empowerment in the EU’, aimed at empowering EU consumers through choice, information and awareness of consumer rights and means of redress).

The Consumer Agenda also identifies challenges, such as moving towards more sustainable consumption and addressing the specific needs of vulnerable consumers.

The Consumer Programme 2014-2020, with a budget of EUR 188.8 million, will support EU consumer policy in the years to come. It is aimed at helping citizens to enjoy their consumer rights and actively participate in the single market, thus supporting growth, innovation and meeting the objectives of Europe 2020.

In order to strengthen consumer confidence in the single market, the Single Market Act of April 2011 proposed a set of measures that included proposals on alternative dispute resolution, collective redress and passengers’ rights. A new set of measures for adoption (the Single Market Act II) was presented by the Commission in October 2012. It focused on a revision of the general product safety and market surveillance rules and included a bank account initiative. The latter would ensure increased transparency and comparability regarding bank account fees and make switching bank accounts easy for consumers. The digital dimension of the Single Market was completed by the Digital Single Market (DSM) Strategy, adopted by the Commission on

6 May 2015, aimed, among other things, at providing better access for consumers to digital goods and services across Europe[4].

European institutions systematically monitor consumer policy by means of the Consumer Conditions Scoreboard, that monitors national conditions for consumers in three areas (knowledge and trust, compliance and enforcement, complaints and dispute resolution) and examines progress in the integration of the EU retail market based on the level of business-to-consumer cross-border transactions and the development of e-commerce, and by means of the Consumer Markets Scoreboard which surveys consumers with recent purchasing experiences to track the performance of over 40 consumer markets on key indicators such as trust that sellers respect consumer protection rules, comparability of offers, the choice available in the market, the extent to which consumer expectations are met, and damage caused by problems that consumers encounter[5].

B. Sectoral measures (5.5.2)

1. Consumer groups

The involvement of groups representing EU consumers’ interests is a priority for the European institutions. The European Consumer Consultative Group (ECCG) is the Commission’s main forum for consultation with national and European consumer organisations. Set up by Commission Decision 2009/705/EC, the ECCG may advise and inform the Commission on all issues related to consumer interests at EU level. Parliament and the Council have recently adopted a regulation on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy-making in the area of financial services[6].

2. Consumer education

The EU has organised consumer education actions at various stages, such as the gradual inclusion of consumer education in primary and secondary school syllabuses. The Europa Diary is a school diary aimed at students in secondary school (aged 15-18 years). It contains information for young people on EU-related issues, including their rights as consumers. The Commission has also piloted teacher training schemes and supported the creation of Master’s degree courses on consumer policy. The interactive and online consumer education tool ‘Dolceta’ (http://www.dolceta.eu) is available in all Member States and in all the official EU languages. It is aimed at trainers and teachers but also at the informed consumer, and covers, inter alia, basic consumer rights, product safety and financial literacy. To stimulate university-level education in consumer policy, the Commission has awarded start-up grants to set up Master’s degree programmes.

3. Consumer information

Better information and improved knowledge of consumer rights could lead to enhanced consumer confidence. The EU has set up European Consumer Centres (the ECC-Network) to provide information and advice on cross-border shopping and to handle consumer complaints.

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A parallel network, FIN-NET, fulfils the same role for complaints about cross-border financial services. The Commission also conducts consumer information campaigns in the Member States and publishes practical guides for consumers. SOLVIT is a service dedicated to resolving disputes resulting from breaches of European law.

The Consumer Rights Awareness Campaign, organised by the Commission, took place from spring 2014 to early 2016, informing citizens of their rights under EU consumer law and pointing them to the right places where they could obtain advice and help should they have questions or problems, and was aimed at increasing general knowledge among traders and consumers of EU-wide consumer rights, that stem mostly from national transposition of EU directives. Particular focus was on the Consumer Rights Directive, the Unfair Commercial Practices Directive, the Unfair Contract Terms Directive and the Consumer Sales and Guarantees Directive.

Research carried out for the European Parliament indicated that while there is a lot of information available on the internet on consumer rights, this information is dispersed among numerous European and national sources[7]. Your Europe[8] portal plays an important role in offering access to improved information on consumer policy and in gathering different information sources into one reference information centre.

4. Enforcement of consumer rights

The effective and correct enforcement of these rights is just as important as the existence of consumer rights. The responsibility for their enforcement lies mainly with the national public authorities. Regulation (EC) No 2006/2004 on consumer protection cooperation links up these national authorities in an EU-wide network, providing them with a framework to exchange information and to work together to stop any breach of consumer protection laws (e.g. on misleading advertising, package holidays or distance selling). The network also carries out joint market surveillance and enforcement activities (e.g. in the form of internet sweeps during which the authorities check websites to see whether they comply with the law).

ROLE OF THE EUROPEAN PARLIAMENT

Parliament is constantly improving consumer protection rules in Europe. Consumer protection policy has shifted from being a technical harmonisation of standards policy in furtherance of the internal market to become part of the drive to improve the objective of establishing a ‘citizens’ Europe’. The codecision procedure and the widening of the areas of legislation to be adopted under the qualified majority voting procedure in the Council gave Parliament the power to develop and strengthen EU consumer protection legislation. As a result of the European Parliament’s legislative effort, as of 13 June 2014 Member States apply the national laws implementing the Consumer Rights Directive, which was adopted by an overwhelming majority in the European Parliament (615 for, 16 against, 21 abstentions) (rapporteur: Andreas Schwab) on 23 June 2011. The Directive strengthens consumer rights, for example by establishing a longer cooling-off period for distance and off-premises contracts, introducing greater price transparency, prohibiting pre-ticked boxes and clarifying information on digital content, in order to boost the confidence of European consumers. Parliament is currently debating the proposal to revise Consumer Protection Cooperation (CPC) (Regulation (EC) No 2006/2004) with the intention of improving the effectiveness of the rules and procedures on cooperation between the

national authorities responsible for the enforcement of consumer protection laws\(^9\). Parliament is working as well on new European contract rules on the online sale of goods and on the supply of digital content.

Parliament plays an important role not only working on European legislation but also setting policy agenda in the area of consumer protection by adopting own-initiative reports\(^10\). Parliament has been particularly active in ensuring higher budgetary provisions for measures in areas such as the information and (financial) education of consumers and the development of consumer representation in the Member States, with the emphasis on Member States that acceded after 2004.

Recent research indicates that the ongoing Brexit process will generate uncertainties and have a negative impact on consumer rights\(^11\). Parliament will need to play a significant role in ascertaining if democratic legitimacy and respect for citizens' rights are present in this process\(^12\).

Mariusz Maciejewski / Sarabjeet Hayer
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\(^10\)e.g. a new agenda for European Consumer Policy; European Parliament resolution of 22 May 2012 on a strategy for strengthening the rights of vulnerable consumers; European Parliament resolution of 15 November 2011 on a new strategy for consumer policy.
