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Committee on Legal Affairs

2005/0042B(COD)

1.2.2006

OPINION

of the Committee on Legal Affairs

for the Committee on the Internal Market and Consumer Protection

on the proposal for a decision of the European Parliament and of the Council
establishing a programme of Community action in the field of consumer
protection (2007-2013)
(COM(2005)0115 – C6-0225/2005 – 2005/0042B(COD))

Draftsman: Aloyzas Sakalas

PA_Leg

SHORT JUSTIFICATION

The Commission's proposal brings together both public health and consumer protection policies under one programme framework. In response to the main committees' (Internal Market and Environment) request, the Conference of Presidents decided on 30 June 2005 to split the proposal. The Committee on Legal Affairs wishes to express its support for this decision, because of the risk that public health policy would override the policy of consumer protection. Moreover, the economies of scale are not made out by the extended impact assessment prepared by the European Commission. The Committee has nevertheless concentrated on those parts of the proposal that fall within its competence, as defined by the Rules of Procedure. Accordingly, this opinion is addressed to the Internal Market Committee, which is responsible for the consumer protection part of the proposal.

The proposal establishes a seven-year programme as the successor to the current programme, based on Decision 20/2004/EC of the European Parliament and of the Council establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007. The Committee on Legal Affairs considers it appropriate that the duration of the programme should correspond to that of the Financial Perspective of the Union, finally adopted during the December 2005 European Council. The extension of the consumer protection objectives is also welcome. However, the Committee would like to propose some amendments in order to contribute to the improvement of the European consumer protection policy.

The decision establishing the current programme was taken on the basis of Article 153 of the Treaty and the same legal basis is proposed now. The Committee on Legal Affairs takes the view that the legal basis for this proposal is properly chosen. The principle of subsidiarity is respected, since the Decision establishing a Programme is the most appropriate instrument to achieve the objectives pursued, establishing a framework for supporting the actions of the Member States.

The extended impact assessment of the strategy and programme states in point 2.2 that there are challenges that "only action on EU level can tackle" and that national action should be complemented by Community measures. For this purpose the Commission also plans to extend the scope of action of the public health programme executive agency, in order to establish a European Consumer Institute to implement the actions for consumer protection. The Committee on Legal Affairs supports the idea, but suggests that an analysis should be carried out prior to this proposal. It proposes that the European agency for consumer protection should be a separate body from the Health Agency, although they could have a common infrastructure and share facilities and resources.

The proposed programme seems to provide added value on top of the existing measures in consumer protection field, bearing in mind that new Member States joined the EU in 2004, and that in some of these countries the traditions of consumer protection and consumer involvement in policy-making is significantly less long-standing. Another issue, relevant to the whole Union, is that consumers still do not take full advantage of the Internal Market because of lack of confidence, insufficient reference to consumer interests in framing other European policies and the weak self-organisation of consumers. Moreover, the presently available financial and human resources do not allow the Commission systematically and

consistently to collect data about various consumer protection aspects and develop a knowledge base for the development of consumer protection at EU level.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

AMENDMENTS TO PROPOSAL 1

Amendment 1 Recital 3

(3) Whilst maintaining the core elements and specificities of actions on health and consumer protection, a single integrated programme should help to maximise synergies in objectives and efficiency in administration of actions in these areas. Combining health and consumer protection activities in a single programme should help to meet joint objectives on protecting citizens from risks and threats, increasing the ability for citizens to have the knowledge and opportunity to make decisions in their interests and supporting mainstreaming of health and consumer objectives in all Community policies and activities. Combining administrative structures and systems should enable more efficient implementation of the programme and help to make best use of available Community resources for health and consumer protection.

(3) Whilst maintaining the core elements and specificities of actions on health and consumer protection, a single integrated programme should help to maximise synergies in objectives and efficiency in administration of actions in these areas. Combining health and consumer protection activities in a single programme should help to meet joint objectives on ***increasing citizens' confidence in the internal market,*** protecting citizens from risks and threats, increasing the ability for citizens to have the knowledge and opportunity to make decisions in their interests and supporting mainstreaming of health and consumer objectives in all Community policies and activities. Combining administrative structures and systems should enable more efficient implementation of the programme and help to make best use of available Community resources for health and consumer protection.

¹ Not yet published in OJ

Justification

The objectives of the policy implemented in the fields of health and consumer affairs should be to improve EU citizens' quality of life from their health point of view, and to increase safety and confidence in internal market products.

Amendment 2
Recital 14 a (new)

(14a) The Commission should prepare a proposal for the setting-up of an agency to carry out the tasks of the envisaged Consumer Institute as an agency separate from the Executive Agency for the Public Health Programme but using shared infrastructure and facilities.

Justification

There is a need for the Commission to be supported in the management of the consumer protection actions, as well as a body that would be capable of undertaking all the data analysis relevant for the consumer protection objectives. With regard to the split of the original proposal into two parts, a 'Consumer Institute' (proper name to be chosen at the moment of establishment) should not form part of the Public Health Agency, but it could be reasonable that both of them share resources for the reason of economy.

Amendment 3
Recital 14 b (new)

(14b) The Commission's Directorate General on Health and Consumer Protection undertakes to work closely with other Directorates General in the Commission from the earliest possible stage where their work has a bearing on consumer protection. This is regarded as particularly important in the case of the Directorate General for Justice, Freedom and Security as regards its work in the field of civil law (private international law, mediation, alternative dispute resolution, legal aid) and in the case of Directorate General for Internal Market and Services.

Justification

Many of the legislative proposals prepared by the DG for Justice, Freedom and Security are

relevant to consumer protection. The European Commission should be obliged to undertake the adequate internal consultations. This amendment responds to the need to integrate consumer-protection policy with other Community policies.

Amendment 4

Article 2, paragraph 1

1. The programme shall complement and support the policies of the Member States and shall contribute to protecting the health, safety and economic interests of citizens.

1. The programme shall complement and support the policies of the Member States and shall contribute to protecting the health, safety and economic interests of citizens **by means of added value actions.**

Justification

The improvement of European citizens' health is the ultimate objective of all the activities carried out in the field of health in the context of the Treaty and its modernisation through research is essential.

Amendment 5

Article 2, paragraph 2, point (c)

(c) The specific consumer protection objectives to be pursued through the actions and instruments set out in Annex 3 to this Decision shall be:– a better understanding of consumers and markets;

– better consumer protection regulation;

– better enforcement, monitoring and redress;

– and better informed and educated and responsible consumers.

(c) The specific consumer protection objectives to be pursued through the actions and instruments set out in Annex 3 to this Decision shall be:– a better understanding of consumers and markets;

– better consumer protection regulation; ***in particular better integration of consumer-protection policy into other Community policies, especially in the field of civil law;***

– better enforcement, monitoring and redress;

– and better informed and educated and responsible consumers.

Justification

The need to ensure consistency with other Community policies should be brought as a specific objective of the programme.

Amendment 6

Article 3 a (new)

Article 3a
Beneficiaries

1. The financial contributions for joint actions 6 and 16 may be awarded to a public body or a non-profit-making body designated by the Member State or the competent authority concerned and agreed by the Commission.

2. The financial contributions for action 17 may be awarded to European consumer organisations which:

(a) are non-governmental, non-profit-making and independent of industry, commercial and business or other conflicting interests, and have as their primary objective and activities the representation of consumer interests in the standardisation process at Community level, and

(b) have been mandated in at least two-thirds of the Member States to represent the interests of consumers at Community level:

- by bodies representative, in accordance with national rules or practice, of national consumer organisations in the Member States, or

- in the absence of such bodies, by national consumer organisations in the Member States that are representative of consumers, in accordance with national rules or practice, and are active at national level.

3. The financial contributions for action 18 may be awarded to European consumer organisations which:

(a) are non-governmental, non-profit-making and independent of industry, commercial and business or other conflicting interests, and have as their primary objective and activities the promotion and protection of the health, safety and economic interests of consumers in the Community, and

(b) have been mandated to represent the interests of consumers at Community level by national consumer organisations in at least half the Member States, are representative of consumers, in

accordance with national rules or practice, and are active at regional or national level, and
(c) have provided to the Commission satisfactory accounts of their membership, internal rules and sources of funding.

Justification

The conditions to be fulfilled by the organisations financed in the framework of the programme should remain the same as specified in Article 7 of the existing Decision 20/2004/EC of the European Parliament and of the Council, establishing a general framework for financing Community actions in support of consumer policy for the years 2004-2007.

Amendment 7 Article 9

In the course of implementing the programme, relations with third countries that are not participating in the programme and relevant international organisations shall be encouraged.

In the course of implementing the programme, relations with third countries that are not participating in the programme and relevant international organisations shall be encouraged, ***especially with regard to product safety and dealing with rogue traders.***

Justification

Enhancing the ability of citizens to take better decisions in their interests in the field of health, and as consumers, and developing synergies between the various Member States' services are essential to the process of framing a Community policy for the health and protection of European citizens.

Amendment 8 Annex III, Objective I, Action 2

Action 2: The collection and exchange of data and information that provide an evidence base for the development of consumer policy and for the integration of consumer interests *in* other Community policies, including, surveys of consumer and business attitudes, consumer-related and other market research in the financial services area, collection and analysis of

data and information that provide an evidence base for the development of consumer policy and for the integration of consumer interests *into* other Community policies, including, surveys of consumer and business attitudes, ***in particular the way in which differing legal regimes and the lack of effective cross border redress mechanisms affects consumer behaviour in***

statistical and other relevant data, the statistical element of which will be developed using as necessary the Community Statistical Programme.

the internal market, consumer-related and other market research in the financial services area, collection and analysis of statistical and other relevant data, the statistical element of which will be developed using as necessary the Community Statistical Programme.

Justification

There is a large body of evidence that suggests that differing legal regimes have a dissuading effect on consumer exercising their right to cross border purchases.

Amendment 9

Annex III, Objective II, Action 4, point 4.4.

4.4 Legal and technical expertise for policy development on the economic interests of consumers;

4.4 Legal and technical expertise for policy development on the economic interests of consumers, ***to include continued consideration of a model for a European class action;***

Amendment 10

Annex III, Objective III, Action 6

Action 6: Financial contributions for specific joint surveillance and enforcement actions to improve administrative and enforcement cooperation on Community consumer protection legislation, including the General Product Safety Directive, and other actions in the context of administrative cooperation.

Action 6: Financial contributions for specific joint surveillance and enforcement actions to improve administrative and enforcement cooperation on Community consumer protection legislation, including the General Product Safety Directive, and other actions in the context of administrative cooperation, ***subject to the conditions set out in Article 3a(1).***

Justification

Amendment necessary as a consequence of Amendment 3.

Amendment 11

Annex III, Objective IV, Action 16

Action 16: Financial contributions for joint actions with public or non-profit bodies constituting Community networks that

Action 16: Financial contributions for joint actions with public or non-profit bodies constituting Community networks that

provide information and assistance to consumers to help them exercise their rights and obtain access to appropriate dispute resolution (the European Consumer Centres Network)

provide information and assistance to consumers to help them exercise their rights and obtain access to appropriate dispute resolution (the European Consumer Centres Network), ***subject to the conditions set out in Article 3a(1).***

Justification

Amendment necessary as a consequence of Amendment 3.

Amendment 12
Annex III, Objective IV, Action 16

Action 16: Financial contributions for joint actions with public or non-profit bodies constituting Community networks that provide information and assistance to consumers to help them exercise their rights and obtain access to ***appropriate*** dispute resolution (the European Consumer Centres Network.)

Action 16: Financial contributions for joint actions with public or non-profit bodies constituting Community networks that provide information and assistance to consumers to help them exercise their rights and obtain access to ***legal aid and advice, mediation and other forms of alternative dispute resolution, including the Commission's SOLVIT system, all of which are to be brought under the aegis of the European Consumer Centres Network. Particular attention will be paid to assisting the new Member States and acceding countries.***

Justification

The scope of this action should be as broad as possible and clearly cover the existing mechanisms that are available to the citizen, including the SOLVIT system. Particular attention for new or acceding Member States is necessary to support their less well-developed consumer organisations.

Amendment 13
Annex III, Objective IV, Action 17

Action 17: Financial contributions to the functioning of Community consumer organisations representing consumer interests in the development of standards for products and services at Community level.

Action 17: Financial contributions to the functioning of Community consumer organisations representing consumer interests in the development of standards for products and services at Community level, ***subject to the conditions set out in Article***

3a(2).

Justification

Amendment necessary as a consequence of Amendment 3.

Amendment 14
Annex III, Objective IV, Action 18

Action 18: Financial contributions to the functioning of Community consumer organisations.

Action 18: Financial contributions to the functioning of Community consumer organisations, ***subject to the conditions set out in Article 3a(3).***

Justification

Amendment necessary as a consequence of Amendment 3.

PROCEDURE

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| Title | Proposal for a decision of the European Parliament and of the Council establishing a programme of Community action in the field of consumer protection (2007-2013) |
| References | (COM(2005)0115 – C6 0225/2005 – 2005/0042B(COD)) |
| Committee responsible | IMCO |
| Opinion by Date announced in plenary | JURI 7.7.2005 |
| Enhanced cooperation – date announced in plenary | |
| Draftsman Date appointed | Aloyzas Sakalas 15.9.2005 |
| Previous drafts(wo)man | |
| Discussed in committee | 28.11.2005 |
| Date adopted | 31.1.2006 |
| Result of final vote | +: 18 –: 0 0: 0 |
| Members present for the final vote | Maria Berger, Bert Doorn, Giuseppe Gargani, Kurt Lechner, Klaus-Heiner Lehne, Katalin Lévai, Marcin Libicki, Hans-Peter Mayer, Aloyzas Sakalas, Francesco Enrico Speroni, Rainer Wieland, Nicola Zingaretti, Jaroslav Zvěřina, Tadeusz Zwiefka |
| Substitute(s) present for the final vote | Alexander Nuno Alvaro, Nicole Fontaine, Jean-Paul Gauzès, Roland Gewalt, Eva Lichtenberger, Manuel Medina Ortega, Michel Rocard |
| Substitute(s) under Rule 178(2) present for the final vote | |
| Comments (available in one language only) | ... |