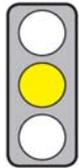


KEY ISSUES

Objective of the Communication: The Commission drafts its strategy for EU consumer policy by 2014.

Parties affected: All citizens and companies.



Pros: (1) Assessing the burdens inflicted upon SME can help prevent a disproportionate amount of burdens.

(2) Improving law enforcement, also by means of infringement proceedings, reduces legal uncertainty.

Cons: (1) In view of inefficient administrative structures in several Member States and tight public budgets it is questionable whether new EU rules on market surveillance and exchange of information between the Member States' authorities would improve product safety substantially.

(2) The promotion of "sustainable consumption behaviour" is an indication that the Commission has given up on the concept of the responsible consumer.

CONTENT

Title

Communication COM(2012) 225 of 22 May 2012: A **European Consumer Agenda** – Boosting confidence and growth

Brief Summary

► Background

The Commission is drafting EU consumer policy by 2014. For this it defines the targets and fields of action, and presents general, horizontal initiatives as well as sector-specific initiatives for the future.

► Targets

The Commission is pursuing five targets:

- Improving consumer safety: goods and services must not jeopardise the safety of consumers
- Enhancing consumer knowledge: consumers need reliable information for their decisions on the market
- Stepping up enforcement and improving redress: consumer rights must "exist in practice" (cf. Press release IP/12/491) and, therefore, must be enforceable by authorities and courts.
- Aligning consumer rights to economic and societal change: the legal rules must take account of technical "challenges", namely the internet.
- Promoting sustainable consumer habits: The Commission wishes to address "unsustainable patterns of consumption" (p. 3).

► Action Fields

- The Commission pursues its targets by means of:
 - general, horizontal initiatives and
 - sector-specific initiatives relating to the five fields of action food, financial services, energy, transport and digital.
- The Commission will "of course" (p. 7) analyse the burden for small and medium-sized enterprises (p. 7) with regard to all initiatives.

► General, horizontal initiatives

– Improving consumer safety

- The legal framework for product safety is to be revised and harmonised in 2012. In particular, market surveillance rules are to be revised and, inter alia, should provide for an improved exchange of information between the Member States' authorities (p. 9).
- The Commission wishes to intensify international cooperation regarding consumer protection, in particular with China. To this end, it plans to implement the concept of "safety at source" (p. 12).
- In 2012, the Commission will publish a Green Paper on the safety of consumer services "in selected sectors" for discussion (p. 8).
- On the basis of guidelines for import controls in the areas of product safety and compliance, import controls by customers and market surveillance authorities are to be improved by 2014.

– Enhancing the knowledge of consumers and enterprises

- The Commission is planning an EU-wide information campaign on consumer rights in 2013.
- It wishes to "strengthen" the network of European Consumer centres (ECC-Net) (p. 10).

- Through the Enterprise Europe Network, the Commission wishes to inform in particular small and medium-sized enterprises (SME) "more regularly" and systematically as to consumer protection rules (p. 10).
- The Enterprise Europe Network is a Europe-wide network consisting of 500 organisations including chambers of commerce, regional development agencies and technology centres at universities. It is to support co-operations, technology transfers and strategic partnerships between SME.
- Together with the companies, the Commission wishes to develop standards for comparing the prices, quality and sustainability of products. Moreover, close attention is to be paid to the standardisation of "key information" (p. 13).
- The Commission wishes to generally improve the information available to consumers, e.g. the web portal "Your Europe". New information is to be introduced in a sector-specific manner such as "e-YouGuide". The cooperation with journalists and media is to be reinforced.
- In 2012, the Commission wishes to establish an interactive platform for consumer knowledge. The target group is mainly teachers working with 12-18 years old.
- **Stepping up enforcement and improving redress**
 - The network of national consumer protection authorities (CPC-Net) is to continue to carry out annual "sweeps" and in so doing be supported by the Commission (p. 10).
 - Sweeps are coordinated actions of Member States' consumer protection authorities with the aim to enforce EU consumer protection laws. In particular, this is about screening websites systematically and synchronically at EU level for infringements in order to prohibit them.
 - The Commission intends to step up infringement proceedings against Member States due to the insufficient implementation or enforcement of EU consumer protection rules.
 - The Regulation on cooperation concerning consumer protection [(EC) No. 2006/2004] is to be evaluated. To this end, the Commission considers to propose amendments at the end of 2014.
 - The European Judicial Network for civil and trade matters is to be better used (p.10).
 - The European Judicial Network for civil and trade matters (EJN-civil) consists of Member States contact points and further institutions which are mainly focused on EU law and international private law. It is to facilitate cooperation within the judiciary through the mutual exchange of information.
 - In the European e-Justice Portal a database on consumer law is to be integrated in 2013. The prevention of unfair commercial practices is to be better coordinated. In 2012, the Commission wishes to review the application of the Unfair Commercial Practices Directive (2005/29/EC). Children are to be consistently protected against misleading advertising, also online.
 - The Commission wishes to improve the enforcement of consumer information rights through application guidelines for the online sector by 2014.
 - The Commission wishes to eliminate discrimination on grounds of nationality by guidelines under the scope of the Directive on services in the internal market (2006/123/EC).
 - With regard to the European Small Claims Procedure [VO (EC) No. 861/2007], in 2012 the Commission will publish a guide providing practical advice for consumers and legal practitioners (p. 12). The procedure forms will be made available online in 2013. Moreover, the Commission plans to evaluate the procedure inter alia with a view to possibly increasing the maximum value of a claim (currently 2.000 Euro).
 - The Commission is considering establishing an EU legal framework for collective redress (p. 12).
- **Aligning consumer rights to economic and societal change**
 - The Commission wishes to regulate at EU level:
 - electronic identification, authentication and signature [Regulation Proposal COM(2012) 238; s. [CEP Policy Brief](#)],
 - the management of copyrights and related rights [Directive Proposal COM(2012) 372], possibly including a revision of the charges for private copies.
 - Following a Green Paper on card, internet and mobile payments [COM(2011) 941; s. [CEP Policy Brief](#)], the Commission wishes to make "concrete proposals" in the first quarter of 2013 (p. 14).
 - In the fourth quarter of 2012, the Commission wishes to submit a Green Paper on parcel services.
- **Promoting sustainable consumer habits**
 - Consumers "should" be "encouraged" to adopt more sustainable consumer behaviour (p. 5).
 - The Commission wishes to assess ways to improve availability and affordability "through appropriate incentive schemes or voluntary action" (p. 16).
 - The methodology for assessing the life-cycle environmental performance of products is to be harmonised.
 - As part of the next second Ecodesign Working Plan the Commission wishes to apply the Ecodesign Directive (2009/125/EC; s. [CEP Policy Brief](#)) "gradually" to "cover a growing number of products" (p. 16).
- ▶ **Special sector-specific initiatives**
 - **Food**
 - The Regulation on official controls performed along the food chain [(EC) No. 882/2004] is to be revised and simplified in 2012. The number of controls is to be increased and authorities are to be better-funded to this end.

- The legal framework governing animal health, plant health, plant reproductive materials and food hygiene is to be revised. In so doing, the Commission is particularly focused on improving coherence and clarifying the responsibilities of food business operators.
- The Commission wishes to review the provisions on labelling the origin of food and the labelling of alcoholic beverages.
- The Commission is planning to continue the assessment and approval of information on nutritional and health claims pursuant to the Regulation on nutrition and health claims [(EC) No. 1924/2006; s. [CEP Policy Brief](#)].
- **Financial services**
 - The Commission wishes to regulate at EU level:
 - the information on standard products for private investors [Regulation Proposal COM (2012) 352] and
 - insurance mediation [Directive Proposal COM(2012) 360].
 - In 2012, the Commission intends to assess the need “to strengthen the current rules” aimed at combating unfair practices in the financial services sector “or step up enforcement” (p. 14).
 - The application of the Directive on credit agreements for consumers (2008/48/EC) is to be evaluated. Further harmonisation is to be considered, e.g. for smaller loans, deferred debit or “responsible” lending (p. 14).
 - In 2012, the Commission wishes to submit a legislative proposal encompassing “issues related to bank accounts”. It will focus e.g. on fees transparency and an easier switching between banks. (p. 14)
- **Energy**
 - Price transparency for electricity and gas is to be improved. To this end, the Commission will adopt guidelines for the private customer energy market in coordination with regulators and stakeholders.
 - Consumers are to be better informed as to how to optimise their energy consumption.
 - The Directive on energy labelling (2010/30/EU; s. [CEP Policy Brief](#)) is to be revised in 2014 and in future also applied to e-commerce.
- **Travel and transport**
 - The rules on Air Passenger Rights are to be revised in 2013.
 - The Commission wishes to submit application guidelines for transport and air passenger rights.
 - It wishes to revise the Directive on package travel (90/314/EEC) by the beginning of 2013, in particular with respect to tours being increasingly planned individually and booked online.
 - The provision of consumer information on fuel consumption and CO₂ emissions for marketing new passenger cars (DIR 1999/94/EC) is to be revised in 2013.
- **Digital**
 - The Commission submits proposals on cloud computing which will “take full account of consumer interests” (p. 14) [Communication COM(2012) 529].
 - The sending of unsolicited advertising e-mails (“spam”) is to be fought at international level.
 - It should be examined to what extent EU-wide rules are responsible for deficient digital content.
 - In 2012, the Commission wishes to submit a Communication on online gambling.

Statement on Subsidiarity by the Commission

The Commission does not address the issue of subsidiarity.

Policy Context

The Consumer Agenda is part of the overall “Europe 2020” strategy for “smart, sustainable and inclusive growth” [Communication COM(2010) 2020; s. [CEP Policy Brief](#)].

Its aim to adapt consumer law to economic and societal change is also pursued by the Commission inter alia with the reform of the EU data protection law [s. COM(2012) 9], in particular with the proposal for a General Data Protection Regulation [COM(2012) 11; s. [CEP Policy Brief](#)].

Options for Influencing the Political Process

Directorate General:

DG legal affairs, DG health and consumers

ASSESSMENT

Economic Impact Assessment

The Commission is announcing a wide range of measures in different fields. A detailed evaluation of the individual measures cannot be carried out until they have been substantiated.

Consumer protection is often only possible through additional costs. As this tends to lead to increased prices, which is in conflict with consumers’ interests, the costs and benefits must be repeatedly balanced out against each other. **The announced assessment of the burden, in particular of SME,** through the Commission’s initiatives **is therefore to be welcomed.**

Improving consumer safety. In order to ensure that consumers rely on the safety of products traded on the internal market, compliance with the relevant safety rules must be monitored by the Member States. However, market surveillance is becoming increasingly demanding, since the rules which companies must obey are becoming increasingly complex. **In order to ensure the safety of the products, market surveillance and the transnational exchange of information must function more efficiently. In view of inefficient administrative structures in several Member States and tight public budgets, it is, however, questionable whether new EU rules will lead to substantial improvements.**

Enhancing the knowledge of consumers and enterprises. Consumers and enterprises need information as to their respective rights and duties. In particular for cross-border trade within the internal market there is uncertainty on the part of consumers and enterprises. The announced information campaigns for consumers and in particular for SME through the network of European consumer centres and the Enterprise Europe Network represents a step in the right direction.

Stepping up enforcement and improving redress: Consumer protection rules are only effective if they are actually enforced. If they are applied differently in the various Member States, then this will result in diverging protection levels and legal uncertainty. **The improvement of legal enforcement, also by means of infringement proceedings, is therefore appropriate.**

Promoting sustainable consumer habits. The promotion of “sustainable consumption behaviour” is not consumer policy in the strongest sense of the word. Here, a political objective is declared a general objective of the consumer, to which they first have to be “encouraged”. This is a further **indication that the Commission has given up on the idea of the responsible consumer.** Quite apart from the fact that the Commission fails to substantiate the term “sustainable consumption behaviour”, it also fails to explain what improved availability and affordability could look like and who should bear the associated costs. It must be feared that a comprehensive product regulation and interventions into the pricing system in the form of taxes and/or subsidies will be steered politically, rather than leaving it up to the enterprises to design the products the consumers wish to have.

Assessing the life-cycle environmental performance of individual products faces the fundamental problem that the environmental impact of multi-product companies, especially in the case of coupled production, can only be assigned to certain products under merely hypothetical preconditions. It is questionable whether or not the information of consumers is thus actually improved; the planned harmonisation of investigation methods for environmental balance does not have much effect either.

Applying the Ecodesign Directive to more and more products leads to a prohibition of products which otherwise would be demanded by consumers (e.g. light bulbs), and in certain cases does not even serve the purpose of environmental protection (s. [CEP Policy Brief](#)). It would be better to extend the scope of the Directive on energy labelling [2010/30/EU; s. [CEP Policy Brief](#)] so that informed consumers can decide according to their interests. Both Directives require a higher degree of market surveillance through Member States.

Legal Assessment

Competency

Unproblematic. The legal basis of the Communication is Art. 169 (2) TFEU.

Subsidiarity

Unproblematic.

Proportionality

Unproblematic.

Compatibility with EU Law

Unproblematic. In particular the integration of consumer interests into the relevant policies corresponds to the primary law requirements (Art. 12 TFEU, Art. 38 Charter of Fundamental Rights).

Compatibility with German Law

Unproblematic.

Conclusion

Consumer protection is often only possible if one accepts that additional costs are incurred. Assessing the burdens inflicted upon SME can help prevent a disproportionate amount of burdens. In view of inefficient administrative structures in several Member States and tight public budgets it is questionable whether new EU rules on market surveillance and exchange of information between Member States’ authorities would improve product safety substantially. Consumer protection rules can only be effective if actually enforced; improving law enforcement, also by means of infringement proceedings, reduces legal uncertainty. Promoting “sustainable consumption behaviour” is a further indication of the fact that the Commission has given up on the idea of the responsible consumer.