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|  | EUROPEAN COMMISSIONDIRECTORATE-GENERAL JUSTICE and CONSUMERSDirectorate E: Consumers**Unit E.1 : Consumer Policy** |

Brussels, 30 October 2017

**Minutes**

**Meeting of the European Consumer Consultative Group**

**12-13 October 2017, Brussels**

1. **The agenda and the minutes of previous meeting of 14/06/2017 were approved.**

Greece and Malta were not represented.

1. **The purpose of this meeting is to discuss consumer policy and other policies affecting EU consumers**

The meeting is non-public.

1. **List of points discussed**

**12 October:**

**- Policy updates by the Commission**

The Commission gave an update on the recent policy developments, in the following areas:

* **Energy**

The Chair gave an update on the Energy poverty awareness campaign, due to start early November. The campaign is targeting consumers facing energy poverty through a set of actions, e.g. information on energy-saving tips, low-cost energy efficiency improvements and funding possibilities. It will run as a pilot project in four Member States, firstly the Czech Republic and then Greece, Portugal and Romania. The Commission will keep the ECCG informed of developments with the campaign. Members should contact the Commission in case of questions.

* **Rail passenger rights**

As presented during the last ECCG meeting by DG MOVE, the European Commission proposed on 28 September 2017 an update of the European rules on rail passenger rights, to better protect train travellers in case of delays, cancellations or discrimination. Rail passengers should be fully protected no matter where they travel in the EU. The Commission wants to guarantee adequate passenger information and significantly improve the rights of passengers with disabilities or reduced mobility. The Chair invites the members to support this initiative through their channels.

* **Product safety**

As announced at the last ECCG meeting on 14 June 2017, the Commission adopted a Notice on the market surveillance of products sold online as a practical guidance to authorities and the industry. On 2 October 2017, a pilot campaign on tips to consumers for buying safe products online was also launched. The campaign runs initially in three countries: Estonia, Sweden and Spain. The Commission invited members to help with its multiplication. Interested members should contact the Commission, DG JUST, (Contact person: Pinuccia Contino, Head of Product Safety unit, Pinuccia.Contino@ec.europa.eu). Several members expressed disappointment that they had not been chosen for the campaign. The Chair clarified that it is only a pilot project at this phase but we could try to elaborate further as to the choice of countries. BEUC expressed an interest to take part in the multiplication of this project.

* **New deal for consumers package**

The Chair referred to Commission President Juncker's State of the Union speech of 13 September, which included a strong statement for the consumers' rights (dieselgate, dual quality of food). President Juncker has put on paper a firm approach following these two occurrences, which have caused citizens' reaction. The President has announced that he intends to deliver a "New deal for consumers". The recent discussions in the ECCG, mainly around the consumer movement in Europe, are therefore very timely. It was announced that on the second day of the meeting, DG JUST Deputy Director General (DDG), Francisco Fonseca Morillo will share his insights and members will have the opportunity to openly discuss this issue with him.

* LU: Welcomed and supported this laudable initiative and referred to the complications of dieselgate and how this is linked to all rules in the car sector (type approval authorities). LU expressed concerns as to the trust take part at a EU level debate to discuss on lessons learned leading to practical solutions by next year, with the involvement of consumer organisations and businesses (e.g. by convening small working groups).
* Other members agreed with the LU position. The Chair agreed to pass on the message to the DDG in view of the in-depth discussion on this issue, which will follow later.

**- Fitness Check of EU consumer and marketing law**

The Commission gave both a presentation of possible targeted legal interventions as follow-up to the Fitness Check of EU Consumer and Marketing Law and an overview of the replies to the ECCG consultation. Given that only 9 replies were registered, the Commission invited all remaining members to submit their replies. Members agreed that there should be more active participation of the ECCG and the remaining members expressed their commitment to urgently send their contributions.

Although the consultation has now been closed, the Commission will accept the missing replies that could be sent by email in the coming days. [*Following this discussion, the ECCG consultation was re-opened in the EU Survey application and members were invited to submit replies by 26 October 2017*.]

Several members, including BEUC, warned against eliminating information requirements at the marketing stage, as even if the same requirements also apply at the pre-contractual stage, they can be important to consumers already at the advertising stage. Several ECCG members also argued that changes to the rules on the right of withdrawal should not be proposed, unless there is solid evidence that consumers actually abuse this right.  The specific interventions are as follows:

On the request by some traders to change the right of withdrawal:

DK: although traders complaining about the right of withdrawal are mostly from DK, no solid evidence that the right of withdrawal should be amended has been gathered.

The UK asked for more information as to the methodology for assessing possible changes to the right of withdrawal. The Commission replied that so far it has only collected anecdotal data on this issue, so it looks premature to discuss any methodology for assessing data.

DE regretted they had not replied yet to the ECCG consultation and engaged to do so as soon as possible. DE highlighted the importance of training of SMEs and called on the Commission to carefully examine measures.

IE referred to a recent pilot session in Dublin for the Consumer Law Ready SME training project, which showed that many SMEs, in particular those that are not members of any umbrella association, have very little knowledge about consumer rules or are even completely out of information on requirements. Moreover, the small claims procedure is booming but wondered how many are repeat offenders and how many are repeat instances. IE asked if the Commission has more information and agreed with the REFIT finding that EU consumer law fits for purpose, however only if it is effectively enforced. In IE there are penalties for every breach, but regulators are far too soft. The Commission took note of the IE comments and will discuss internally.

LU: raised the practical issue of lack of involvement of SMEs in the ongoing self-regulatory project under the Refit Stakeholder Expert Group to develop guidance on better presentation of pre-contractual information and Terms and Conditions. UEAPME is not engage sufficiently. SMEs want to have something ready to use, such as what kind of links should be on home pages of websites. If we agree on how to better present pre-contractual information and Terms and Conditions within the Refit Expert Stakeholder Group and with the Commission, we can have a real product and not pages of recommendations. LU also raised a legal issue: targeted amendments lead to legal implications. Harmonisation of remedies for consumers under national law can have such implications.

BE and LU introduced specific remedies for breaches of national law implementing the UCPD. But these remedies are only contractual and in the VW case you can only enforce them on car dealers with whom you have a contract, and not on VW, who is the real culprit. There is something that looks good on paper, while actually the provisions do not hit those really responsible.

In Italy, they use other rules than the UCPD. Law in Italy is more favourable to consumers seeking remedies than for example French law, because of national rules on the burden of proof.

The Commission thanked for the support shown to the intervention on harmonising remedies and the project on presentation on information. It was agreed that if we get something tangible on how to better present pre-contractual information and Terms and Conditions it will really be helpful. If not, the Commission may need to consider a legal intervention. Civil procedural rules are indeed complicated and the Commission is addressing introducing rights to remedies under the UCPD precisely with the aim of making it easier for consumers to get remedies.

PL: supports the answer given by BEUC during the consultation and estimates that it is time to take action. Current systems do not adequately support consumer protection. Money from penalties should go to consumer associations and enforcement authorities. The Commission replied that it is not considering this at the moment, but will take on the message.

BEUC: Underlines the importance of collective redress.

The Commission concluded the discussion by noting the ECCG's support to the interventions on transparency on online marketplaces, "free" digital services, UCPD remedies and penalties.

**- Enforcement**

The Commission gave a presentation on the state of play in enforcement cooperation (CPC Regulation) and the next steps, up until its adoption in the European Parliament in November 2017, as well as the preparation of its implementation, 24 months later. The main changes are: inclusion of short-lived practices, extension of the annex to article 20 of the Services directive, some financial services & passenger rights and clarification of the notion of widespread infringements. The new CPC will have powers, such as the authority to close down websites, will be able to allow coordination in case of widespread infringements and allow external alerts. The Commission then presented the function of consumer organisations, in particular their essential role in informing consumers about their rights, education and protection of their interests (Recital 23). Examples of ongoing actions were presented.

BEUC: Highlighted the need to still do more to enforce consumer rights and asked for access to the letter sent by the Commission to Ryanair. The Commission will check if this can be made available. BEUC also asked whether there could be a space within a work clan of CPC in the future to allow for cross sector enforcement cooperation. The Commission replied that national cooperation in strengthened in the new CPC especially cross border. Consumer problems have to be taken in a holistic way.

The Chair mentioned a conference by CEER (Energy regulators) on 28 November 2017, taking place back-to-back with an ECCG Energy subgroup meeting and asked ECCG members to earmark the date for themselves or for the ECCG Energy subgroup member.

- **Dual Food Quality**

The Commission gave a presentation on the Commission's Notice on the application of EU food and consumer protection law to the issue of Dual quality of products (though this is an issue that also concerns non-food products). The matter is becoming increasingly sensitive and evidenced by some tests (at least 11 are reported) in different EU countries showing different compositions in products.

The perception of dual treatment of consumers is being taken as an example for the East Europe divide, as indicated by Commission President Juncker. National authorities find it very difficult to detect what is missing in the communication of brands, as often there is a lack of claims, with the brand itself being the claim. The guidelines will help national authorities to determine whether a company is breaking EU laws when selling products of dual quality in different countries. It is based on existing legislation and the CPC regulation. The objectives are (a) to facilitate the practical application of existing legislation to the issue of dual quality of products – with a specific focus on food, (b) to propose an articulated approach to sector specific and general consumer protection laws to raise the awareness and understanding of stakeholders, and (c) to encourage National Competent Authorities to cooperate nationally and cross border in order to address the issue. The applicable legislation is the Unfair Commercial Practices Directive, the General Food Law and Food Information to Consumers.

The Commission explained that problematic products could be those with a seemingly identical presentation and marketed under the same brand, while presenting significant differences in their composition and/or sensory profiles. The Commission's Joint Research Center is working on guidelines for a common testing methodology. The Commission referred to the need for a cross sectoral approach and explained that in many countries it is difficult to make a case-by-case assessment. Interventions:

CZ: New set of results was published by CZ authorities, showing for example clear problems with baby food.

SI: In SI the problem is smaller but it exists. It can be resolved to a certain level by legislation and enforcement. SI invited the Commission to address the matter of capacity of consumer organisations.

SK: Consumers are faced with other important problems; however, increasing consumers' confidence remains a key issue. The Commission stressed that food testing is much more complicated than detergent testing and that at the moment the focus is on food. The reason is time, capacity and money.

HU: There is significant difference between products; however, more evidence is needed. Common opinion for consumers is that products are of lower quality. Maybe another methodology should be considered.

FI: Brought up an example of food quality issues in FI with D-vitamin pills. There should be a big fine for misleading/wrong information.

BU: Perhaps it is necessary in future to extend the topic of not just dual food quality but also dual quality in cosmetics and even services.

LU: Recipe laws were discussed in the 1970s but were later withdrawn.

The Commission reminded that dual food could be a test case to make use of the UCPD to tackle certain practices and concluded that any proposal in this area also concerns adequate financing to local authorities (among others, to be involved in testing activities).

**- Collective Redress**

Not taken.

**- Consumer Conditions Scoreboard**

The Commission presented the results from the Consumer Conditions Scoreboard (2017 edition) released last July. The main findings indicate that (a) Conditions for consumer improve across the EU, but significant differences persist between countries, (b) Conditions for vulnerable consumers (e.g. those facing severe financial problems) can be challenging, (c) Consumers' trust in online shopping surges, but obstacles remain (e.g. territorial restrictions applied by online sellers) that hamper the development of e-commerce to its full potential.

DE: Asked if consumer organisations were consulted concerning their activities to monitor compliance with consumer law. The Commission explained that this indicator is based on the retailers' survey, and that this score is correlated with the consumers' trust in consumer organisations to defend their rights (from the consumer survey).

FI: Asked how consumer knowledge on faulty product guarantees, where Finland scores poorly, was measured.

The Commission replied that the low knowledge of consumer rights to the legal guarantee in Finland is a consistent finding not just in the recent Scoreboard, but also in previous studies on this issue (e.g. the Commission's consumer market study on legal and commercial guarantees, and the dedicated study under the REFIT evaluation of EU consumer law). The Commission offered to share the exact wording of this knowledge question like it was asked to Finnish consumers.

LU: Shared a short commentary in English about Luxembourg's top ranking in the EU on the Compliance and Enforcement dimension in the Scoreboard, including a view that respondents' feelings more than facts may have led to this result. The Commission explained that in its surveys it tries to ask questions that are factual. In particular with retailers the sample is smaller in some countries (LU, CY, MT, IS), which increases the margin of error.

BE: Agreed with the Scoreboard's suggestion (based on correlation analysis) that consumer protection and rights are not an impediment for business development and innovation. Concerning public funding for consumer NGOs, BE asked where the figures are coming from. The Commission explained that the Scoreboard also reports data sent by national authorities (CPN), e.g. on public funding of consumer NGOs, but that these data are not part of the Scoreboard indicators.

ANEC: Referring to the DG CONNECT scoreboard as an example, ANEC expressed the view that consumer protection is also considered as innovation, however, it is difficult to deal with data. Perceptions are important but can be manipulated easily.

PL: Highlighted that they are using the Scoreboard for preparing opinions, presentations and suggesting policy directions for the authorities, as it is a very important source of data. They would welcome the publication of the Scoreboard on a yearly basis.

The Commission thanked for the interaction and explained that it is a pleasure and privilege to present the Consumer Conditions Scoreboard. As to having it on a yearly basis, in 2013 there was a well-founded decision to reduce its frequency.

**- Evaluation of the Consumer Programme**

The Chair announced the launch of a study concerning the ex-post evaluation of the Consumer Programme 2007-2013 and the mid-term evaluation of the Consumer Programme 2014-2020. A representative of Civic Consulting presented the methodology and the timeline of the study. He asked consumer organisations to indicate persons in their country who could be interviewed to have a clear vision of the main issues at stake regarding the implementation, results and impacts of the actions financed under the Consumer Programmes 2007-2013 and 2014-2020. This also includes the identification of areas of consensus and controversy, the collection of relevant contacts for case studies and contribution to fine-tuning the methodological tools.

The Chair added that the nature and strand repartition of most of the activities in the two programmes - 2007-2013 and 2014-2020 - are very similar. The Commission will upload information on its website. The consultant gave further explanations as to the eligibility criteria, the interviews and the target group and explained that they will not seek to reopen topics that have been previously already provided.

**- Consumer Programme: Consumer Champion**

A representative from BEUC gave an update on the Consumer Champion platform. Some members explained that it could be challenging to use the platform for a number of reasons, such as lack of resources/time (HU, LV, IE, SK). CZ found courses useful, while PT said that it would be good to hold courses in the local language. SI said that there is an issue of few consumer protection experts. CY indicated a need to have programmes on financial services. ANEC has very good collaboration concerning the Consumer Champion. IT, PT, NO would be interested in courses. PT finds that the content and networking were positive.

**- Synopsis of ECCG Members Annual Reporting (August 2016-September 2017)**

The Chair reminded the ECCG members their obligation to report on an annual basis to the Commission. Some reports are still missing and need to be sent in urgently in order to help the Commission finalise its synopsis, which is an important tool for the Commission and the rest of the ECCG to formulate policies and have a better understanding of issues in all Member States. The Commission could share the reports between Members if that would be useful. The Chair asked members to explain if they had specific impairments that the Commission could help resolve and concluded that overall the consumer movement has to be looked at as something dynamic, with questions asked as to "who does what" and "how and by which means"**.**

**- Consumer Organisations involvement**

The ICRT presentation was followed by an interesting presentation of the 'Marktwaechter' (market watch) by DE.

**13 October:**

**- New Deal for Consumers/Consumer Movement**

**a. New Deal for Consumers**

The Commission welcomed the ECCG's efforts to work towards strengthening the consumer movement across Europe. Recent exercises revealed the diversity across Member States, the wide variety of set-ups of national consumer movements, the different "business models" by consumer organisations and the need to take concrete actions from the side of the consumer organisations, national authorities and EU institutions. At the ECCG Working Group meeting of 5 September 2017 discussions evolved around three sub-topics. A representative from each discussion group (BEUC, SI & FI members) gave a presentation, namely: (a) ways of contributing to a new mind-set of EU and national authorities towards consumer policy that makes it a mainstream policy where people and policy makers identify wins and welfare, (b) funding for consumer organisations, and (c) existing and future business models of consumer organisations.

DG JUST Deputy Director-General (DDG) stated that these discussions are very timely, given the recently announced New Deal for Consumers (NDFC), by Commission President Juncker. The NDFC is a legislative package aiming at facilitating coordination and effective action from national consumer authorities at EU level and reinforcing public enforcement action and better protection of consumer rights. It is an ambitious proposal to be launched and/or completed by end 2018. Such an exercise requires a holistic approach by all those involved. The DDG made specific reference to the importance of consumer organisations and asked for support in the Commission's efforts to lead such an aspiring exercise. The members welcomed the DDG's intervention and looked forward to being involved; however they stressed the importance of further clarification. The DDG explained that this is currently being discussed internally and that a set of high-level actions was envisaged in the coming months.

**b. Consumer movement**

The members formed 3 working groups, continuing the discussions around the consumer movement and exchanging ideas to further identify measures to re-think consumer policy. A set of measures were identified and will be included in a reflection paper that will be distributed before the next meeting and that will help the Commission and the ECCG to produce an action plan for next year.

1. **Conclusions/recommendations/opinions**

The members welcomed the initiative by President Juncker on the New Deal for Consumers. The ECCG expressed their support and involvement and agreed to be involved with the next steps that will ultimately lead to a New Deal for Consumers. In the meantime the ECCG will continue to discuss internally the different measures to revamp the consumer movement in Europe.

1. **Next steps**

The ECCG will convene again in a dedicated meeting to further discuss consumer organisations' capacity building measures and find ways to shape the priority areas relevant for the ECCG for 2018. These discussions should lead the way for an ECCG Work Programme 2018, to be finalised by the end of this year.

1. **Next meeting**

 The next meeting will take place in Brussels on 29/11/2017.

1. **List of participants**

Annex II (See list of participants)

