

Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: EU Consumer Policy Strategy 2007-2013 — empowering consumers, enhancing their welfare, effectively protecting them

COM(2007) 99 final

(2008/C 162/02)

On 13 March 2007, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: EU Consumer Policy Strategy 2007-2013 — empowering consumers, enhancing their welfare, effectively protecting them

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 January 2008. The rapporteur was Ms Darmanin.

At its 442nd plenary session, held on 13 and 14 February 2008 (meeting of 13 February), the European Economic and Social Committee adopted the following opinion by 148 votes with 5 abstentions.

1. Conclusions and recommendations

1.1 The EESC positively receives this strategy for 2007-2013 and believes this is a promising step forward in the area of Consumer protection strategy. The EESC recognises that this is an ambitious plan, albeit at times vague, which the Commission has undertaken and augurs that the objectives shall be achieved within the time frame specified.

1.1.1 However the EESC believes that a budget amounting to an average of EUR 22.7 million per year for the Consumer Strategy Programme is unfortunately too low an amount for the implementation of the actions outlined in this strategy. There is an evident mismatch between the ambition set out in the strategy and the resources allocated to the implementation of such strategy.

1.2 The EESC notes that, whereas the Strategy is a positive and ambitious one, the undertakings so far in the areas related to consumer policy have in fact been a disappointment and consequently do not augur well for the success of this strategy. To meet the ambitions it is necessary to set up a dynamic programme for the near future.

1.3 The EESC also notes that in the area of consumer protection, legislation has a pivotal role. On the other hand, existing legislation is not flexible, and a fair market could be of great importance to consumers and suppliers. When the market does not work well, legislation is inevitable. The EESC calls upon the Commission to ensure that where legislation is necessary, it is truly being implemented and observed. And it should not harm in any way existing consumer protection in Member States. One of the tools identified in this respect is better monitoring of the market for which the EESC calls upon the Commission to ensure proper macro and micro market research be carried out. Legislation needs to be coupled with enforcement and constant evaluation. Furthermore it is essential that legislation is simple

and understandable, particularly in view that most players within the internal market are SMEs.

1.3.1 It is recommendable that the Consumer Policy Programme not only ensures enforcement and evaluation of the safeguarding of consumers rights but is also conducive to facilitating cooperation and coordination between the business sectors and the consumer protection organisations in member states. Ultimately, beyond legislation, consumer rights are best protected once these two sectors work together for a common goal.

1.4 Consumer and Retailer/Service provider education is a key component to the observation and knowledge of legislation but also crucial for responsible and sustainable consumption and production.

1.5 The EESC considers essential that the following challenges are addressed within the 2007-2013 period:

- Increased use of technology for fair promotion and responsible consumption of goods and services — eCommerce is becoming an increased tool for purchasing of goods and services however there is no form of protection for the consumer under the current legislative framework as eCommerce advancements are faster than consumer protection stances in this field
- Enforcement of legislation there where necessary — Member State legislation and enforcement of such is different between countries within the EU. It is necessary that the ones with less enforcement are brought to the level of the 'better performing' Member States
- Redress for consumers, both collective and individual — consumers should have an easy and efficient means of seeking redress both in their country and also across

borders. Furthermore collective redress ought to be harmonised across the EU so that the groups of individual consumers and also corporate consumers (particularly SMEs) may avail for such redress

- Protection of consumer rights in international markets
- Involving consumer protection in all EU policies and legislation; and
- Strong supervision of some sectors in the market where the consumer protection is absolutely necessary.

2. Gist of the Commission's strategy

2.1 The strategy highlights the main challenges for this upcoming period. In essence these challenges revolve round the fact that the retail and services market is evolving and growing in a manner that greater empowerment has been devolved to the consumer. However this greater empowerment may result in greater segregations between consumers with knowledge and means, and vulnerable consumer groups. However, this empowerment does not consequently mean that consumer welfare is actually maximised; it is thus essential that consumer confidence is not compromised. Another challenge relates to the ability of businesses, particularly SMEs, to adapt to the technological advancements that bring about a change in the model of selling their product/service and rely more on eCommerce and tailored services to the consumer.

2.2 The objectives set out in the strategy to be achieved by 2013 are as follows:

- Empowering the EU consumers, as this is seen to be the key element in ensuring consumer welfare whilst boosting competitiveness, based on fair and relevant information, fair contracts and redress
- Enhance the consumer's welfare in terms of price, choice, quality, affordability and safety
- Effectively protect consumers from the serious risks particularly the ones that cannot be tackled by the individual directly.

These objectives are seen as the core elements in the internal market economic growth.

2.3 These objectives shall be reached through the EU consumer policy expenditure which shall be targeted through addressing the legal framework so as to ensure consumer protection and the effective application of legislation through enforcement, cooperation, information, education and redress.

2.4 The priority areas set out therefore cover the following fields:

- Better monitoring of consumer markets and national consumer policies
- Better consumer protection regulation
- Better enforcement and redress
- Better informed and educated consumers
- Putting consumers at the heart of other EU policies and regulations.

The Strategy highlights a number of actions within each priority area a number of which have been commented upon in the Specific Comments section.

3. General comments

3.1 The EESC welcomes the Consumer Strategy for 2007 to 2013 and particularly supports the concept clearly spelt out in the strategy that consumer confidence and protection is a core element to a healthy and prosperous internal market. However attention should be given to successful examples within the EU related to self regulation, co-regulation and setting up Codes of Conduct.

3.1.1 However, the EESC does not confine the consumer policy to the implementation of the internal market; on the contrary, as it has been correctly stated in the 'A single market for 21st century Europe' paper from the Commission [COM (2007) 724 final], it is the internal market that should be aimed at satisfying and serving consumer interests.

3.1.2 The EESC considers that the Commission must direct its policy towards transparency of the markets and the strengthening of the internal market, a consumers policy that works in favour of the efficient markets, contributes to economic growth and to the employment and improves the welfare of the consumers.

3.2 The challenges identified by the commission in the internal market are real challenges that need to be addressed and are in fact targeted in the strategy. However, whereas these are market challenges, the EESC believes that the Commission faces two other challenges: having national policies truly harmonised; and placing consumer welfare as a core outcome of the Commission's various DGs.

3.3 The EESC considers that this new communication from the Commission on the strategy for 2007/2013 is a very important and promising step forward and much better structured than the previous common strategy for public health and consumer policy [COM(2005) 115 final] about which the Committee has also produced an opinion ⁽¹⁾.

⁽¹⁾ OJ C 88 on 11.4.2006. INT/271 — Rapporteur Mr. Pegado Liz.

3.4 The EESC is concerned about inconsistencies that this proposal may create with other measures already approved on a Community level. There ought to be coherence of the operational objectives and the decision of the European Parliament and the Council establishing a Community programme of action on Consumer Policy (2007-2013) ⁽²⁾.

3.5 Although overambitious and sometimes vague and not very precise, the Committee augurs that the objectives set out by the Commission are reached within the time frame specified and in the manner most consonant with the requirements of the internal market and the consumers.

3.6 Whereas the Commission has already embarked on a number of initiatives in the realisation of the objectives of the Policy, such as the Green Paper on the review of Consumer Acquis, the Committee urges the Commission to embark on the review of specific directives with diligence. The recently launched communications on the implementation of the Distance Selling Directive [COM(2006) 514 final] of 21.9.2006, the Guarantees and Direct Producers Directive [COM(2007) 210 final] and on the implementation of Directives amendments to the Timeshare Directive 2007 in fact have been a disappointment to the EESC in the way that these proposals do not really go all the way in solving the impeding issues these services in fact have. Furthermore they do not do justice to the objectives set out in the Consumer Policy Strategy.

3.6.1 The EESC looks forward for the Commission's proposal for a Directive on contractual rights of the consumers as stated in its Legislative and Work Programme for 2008 [COM(2007) 640 final], and it will be ready to give its opinion once it is adopted on the issue and, particularly, in what concerns the fulfilment of the principles stated in the process of simplification of Community Law.

3.7 Full harmonisation of consumer law is an approach the EESC is prepared to support under certain conditions and for very specific purposes, when the implementation of the internal market is the major objective. However, such an approach should not be undertaken at the cost of weakening existing rights; it should consolidate consumer rights throughout the various Member States so as to encourage further cross border purchases, resulting in a win-win situation for both the consumer and the retail/service market. The approach should not only be at a level whereby the appropriate level of protection towards the consumer is undertaken by the Member State, but also at the EU level whereby efforts are made to truly achieve market integration.

3.8 The EESC welcomes the actions outlined in the priority areas within the Consumer Strategy. The Committee in fact looks forward to the implementation of such actions. The EESC considers that the resources (both financial and human) of the DG Consumer Affairs are in fact limited. This makes the task of the DG in accomplishing its objective even more arduous.

Furthermore a budget amounting to an average of EUR 22.7 million per year for the Consumer Strategy Programme is unfortunately too low an amount for the implementation of the actions.

3.8.1 Experience with the former programme showed that too many aspects of the plans could not be implemented, also as a result of a lack of staff. Furthermore, the allocated budget on an annual basis was in fact more than the budget allocated for the current period that has less ambitious targets.

4. Specific comments

4.1 Better monitoring of the market: The EESC recognises that better market intelligence needs to be undertaken and in fact supports the measures being proposed under this priority. However the EESC strongly urges the Commission to find innovative ways so as to truly identify the experience and perceptions of the consumer. Additionally, the Commission may possibly wish to undertake a macro approach to identifying consumer experiences in MS through an analysis of real case scenarios and their resolution thereafter. Furthermore the Committee urges that the collection of market intelligence ought not to be at the cost of having additional cumbersome tasks which the individual companies, particularly SMEs, need to carry out.

4.2 Better consumer protection regulation: Initiatives being undertaken within this priority area should thoroughly consider the effects of eCommerce and the digital world have on the rights of the consumer and consequently clearly set out obligations and rights within the digital environment. Furthermore actions ought to be identified in order not to exclude sectors of consumers from being able to avail themselves of certain services due to the digital gap, as this would only result in having yet another vulnerable segment of consumers.

4.3 Better enforcement and redress: Enforcement is definitely required so as to ensure the objectives of this policy are in fact reached; more cooperation between the MS and the Commission is a must. Actions for collective redress being proposed by the Commission are welcomed and supported by the EESC. Such form of redress ensures that consumer problems that cannot be tackled by the individual are in fact seen to.

4.4 Informed and educated customers: the EESC strongly believes that education and information are thoroughly integral to having consumer protection. The European Consumer Centres Network (ECC-Net) has been a great step forward in providing information to the consumers. However the EESC believe that the Commission ought to also find some more innovative and creative means of actually communicating with the consumers in general and with the kind of language which appeals to the public.

⁽²⁾ Decision no 1926/2006/CE of 18 December 2006 — OJ L 404 on 30.12.2006, p. 39.

4.5 Responsible and sustainable consumption: whereas we should aim in having well informed consumers it is important to stress that consumption should be made responsibly. This strategy specifies that there shall be no room for 'rogue' retailers/service providers however it should also be stated that businesses and traders expect consumers to act responsibly in their consumption patterns. Furthermore sustainability in consumption should become an important area of the internal market and both service providers/retailers and consumers should be more well versed in what sustainable consumption is really all about and adopting such practice.

4.6 Consumer protection elements must be integrated in all EU policies and regulations: the measures proposed by the Commission, such as the Consumer Liaison Officers in the DGs, are positive ones and measures which should effectively see that this priority is reached. The EESC agrees with those who think that each DG ought to report on a yearly basis how consumer policy was integrated in their specific area. The EESC thus welcomes the inclusion of the No 2 of the article 153 in the general dispositions (new article 12 of the draft reforming treaty).

4.7 Better protection of consumers in international markets: it is necessary that consumers are protected also on the international market. Such protection should not only be related to the safety of products, which is an increasingly important area for EU consumers, but also to protection against services/products sold particularly through eCommerce which result in problems to the consumer.

4.8 The strategy indicates that the Commission set as an objective to assure that the general interest services policy (SGI) goes together with the right measures for the consumers. The Committee expects that the Commission shares the point of view of the EESC which has been expressed in various opinions on SGI and universal service, in line with the new Protocol on General Interest Services of the Lisbon Treaty.

4.9 Cooperation between industry and consumer protection organisations: beyond the realm of legislation and enforcement it is the cooperation of these two sectors that shall truly bring about consumer protection. Efforts ought to be made to facilitate such cooperation; examples of best practice from Member States who adopt such approach and also have codes of conduct to follow ought to be used across the EU.

Brussels, 13 February 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS
