

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a harmonised methodology for classifying and reporting consumer complaints and enquiries’

COM(2009) 346 final

(2010/C 339/05)

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On 7 July 2009, the 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 European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a harmonised methodology for classifying and reporting consumer complaints and enquiries

COM(2009) 346 final.

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 5 January 2010.

At its 459th plenary session, held on 20 and 21 January 2010 (meeting of 20 January 2010), the European Economic and Social Committee adopted the following opinion by 197 votes with 4 abstentions.

1. Conclusions and recommendations

1.1 The proposal from the Commission is welcomed and supported.

1.2 Initially and at least for the next few years, the system proposed has to be voluntary.

1.3 Costs for reporting organisations should be minimised as much as possible. The system should be cost efficient.

1.4 The proposal for the Commission to make available to third party organisations a data handling tool is supported. It will enable those third party organisations with unsophisticated systems easily to adopt the proposed harmonised approach.

1.5 At sectoral level, the Commission could encourage the adoption of its harmonised methodology for classifying and reporting consumer complaints by all complaint-handling bodies within their respective sector.

2. Introduction

2.1 The Commission uses five key indicators in producing The Consumer Markets Scoreboard. This is an annual publication, currently in its second edition, aimed at identifying those

parts of the internal market which are not functioning well for consumers. One of the five key indicators is consumer complaints, i.e. statistics on consumer complaints. Others are prices, satisfaction, switching and safety. Therefore consumer complaints should be considered as a macroeconomic tool, not just consumer complaints analysis as such.

2.2 The Commission's proposal is in essence a proposal that consumer complaints and enquiries be recorded throughout the EU on a common harmonised basis, using the same descriptors, so that a Europe wide database can easily be created, a database owned by the Commission's DG SANCO. The Commission will finance and maintain the database and IT equipment necessary to store and process data. Commission presents a blueprint, a common grid for classifying and reporting consumer complaints.

2.3 The details of consumer complaints and enquiries which are to be fed into the database will not include complaints and enquiries made directly to traders but only those collected by 'third party' organisations where a consumer has registered a complaint, for example government agencies, regulators, consumer organisations and other organisations such as ombudsmen and self-regulatory bodies. Adoption of the common basis for recording will be voluntary for all organisations involved, though national government funded bodies could be expected to work towards adopting it as soon as possible, subject to having the necessary funding. The Commission will assist with software and expertise for small consumer organisations, unable to adopt harmonised methodology.

2.4 The Commission has already consulted widely in developing this proposal, including the use of an expert group.

2.5 The database will be used in compiling future editions of the Scoreboard. It is also intended to be made publicly available, so that organisations and individuals can interrogate it.

2.6 The proposal has just one main aim, namely to enable data about consumer complaints and enquiries to be used as a key indicator of internal market functioning and thereby to speed up policy responses to failing markets. These responses, at national or European level, could include directing enforcement activity at areas of concern or, when needed, a legislative response.

2.7 The purpose is not to enable any scrutiny of:

- (i) whether complaints are effectively handled or resolved, or
- (ii) whether complaints are justified.

2.8 The database is sensibly intended to be anonymous. Thus details of individual consumers who make complaints are not to be reported. Details of the traders against whom complaints are made are also not to be reported.

2.9 In the common harmonised system proposed, there are three sections for the recording of information:

- (a) General Information;
- (b) Sector Information and;
- (c) Type of Complaint Information.

2.10 Within the second and third sections, there are sub-categories, variously termed 'fields' and 'levels'. Some of the information regarding complaints is described as 'recommended', the remainder as 'voluntary'. Regarding enquiries, all entries are 'voluntary'. The purpose of the distinction between 'recommended' and 'voluntary' is:

- (a) to enable organisations to submit data which are harmonised at a basic level (adopting all the 'recommended' fields);
- (b) to encourage as many as possible also to adopt as many as possible of the 'voluntary' fields and levels.

2.11 The proposal is set out in two documents, both dated 7.7.2009:

- (i) a Commission Communication [COM(2009) 346 final];

- (ii) a draft document which sets out the proposal together with the proposed fields and levels for classifying complaints [SEC(2009) 949].

The Draft Commission Recommendation is not final and can be changed as regards the text in first half of 2010. The main ideas and philosophy of the document will remain unchanged.

3. General comments

3.1 More suggestions are made in the remarks below.

3.1.1 Compliance costs will vary but will be significant for a number of organisations. The resources available for this will vary between and within Member States. There is considerable variation in the current methods of recording complaints by the national organisations of different Member States (quite apart from other organisations). Some have less sophisticated systems than that proposed. Others have more sophisticated systems, which understandably they will not wish to abandon. Generally, it is the latter who will find compliance with the harmonised system most costly. Any technical or financial assistance from the Commission should not give preference to any local complaint assembling organisation.

3.1.2 Each extra field recorded represents a 'cost' in two ways. First it takes time (and thus money) for someone receiving a complaint, to collect each item of data from a complainant and record it. Secondly, the more data is asked of a consumer, the less likely the consumer is to complete registering the complaint.

3.1.3 The harmonised system used must be as compatible as possible with as many as possible of the systems currently used by national organisations. Clear instructions and guidelines should be provided to all organisations adopting such a system in order to ensure a uniform way of encoding complaints and enquiries, irrespective of the choice of the final methodology.

3.1.4 The number of fields with the 'recommended' status should be kept to a minimum. This should make it easier in the early years for organisations to join at a basic level.

3.1.5 The proposal does appear to satisfy the objectives just set out. The 'recommended' fields are probably reportable without too much difficulty by most third party organisations. These 'recommended' fields can be expected to provide a useful set of European wide data. The quality and usefulness of the database will be further improved as and when third party organisations can include recording and reporting of the further 'voluntary' fields and levels.

3.1.6 At sectoral level, the Commission could encourage the adoption of its harmonised methodology for classifying and reporting consumer complaints by all complaint-handling bodies within their respective sector. For example, FIN-NET might speed up the process for the financial services sector, including insurance companies. FIN-NET would benefit of a harmonised consumer complaints system. The network cooperates to provide consumers with easy access to out-of-court complaint procedures in cross-border cases. If a consumer in one country has a dispute with a financial service provider from another country, FIN-NET members will put the consumer in touch with the relevant out-of-court complaint scheme and provide the necessary information about it. To make this scheme more effective, a common classification and registration method for consumer complaints is an important step forward.

3.2 There will continue to be variations in the quality and extent of data reported from different Member States. This will be taken into account in the analysis of that data in each annual issue of Scoreboard. Such variations will probably never be totally eliminated. However, a harmonised system of reporting can be expected to result in a reduction in such variations over a period of years.

3.3 The proposal encourages reporting bodies to report all micro data for every individual complaint. The proposal (at paragraph 33 of the Commission Communication) suggests that one of the voluntary fields should be the 'name of the trader'. This proposal should not include, even on a voluntary basis, the reporting of the name or identity of any individual trader. The Commission's statement at paragraph 39 is therefore welcomed and strongly supported, where it says that the Commission does not wish to receive, or to make public, data concerning the names of traders or enabling the identification of traders. Therefore, the 'name of the trader' should be entirely removed from the lists of fields to be reported.

3.4 One of the fields in the General Information section (at number 67) is 'doorstep selling'. Consistent with the proposed directive on Consumer Rights, this expression should be changed to 'off-premises selling'.

3.5 In the proposed 'Sector Information' section (Section B), the following are included: museums, schools, hospitals, libraries, postal services. Many of these services are provided by governments. For example, schools may be provided by businesses but many more are provided by governments. The purpose of the proposal is to provide information about the functioning of the internal market and thereby to speed up policy responses to failing markets. It is not intended to give information on government performance. So is it appropriate or relevant to report consumer complaints where the supplier is the government? One possible result of this could be that many more complaints are seen to be made about a given service (for example railways) in those countries where the service is provided by the state than in those countries where the service is provided by private business.

3.6 An important aspect of the proposal is that the database will provide enhanced statistical information which will be used in the analysis published annually in Scoreboard. The information used needs to be current. All the information used in each issue should relate to the same period of time or at least to approximately the same time. It should be easy for the reader to see which period is covered by the statistics included in each issue of Scoreboard.

Therefore:

- (a) information should be reported by third parties annually;
- (b) there should be an annual reporting period (probably not longer than 6 weeks) with a clear cut-off date at the end; if there is no such reporting period, there should at least be a clear final annual reporting deadline;
- (c) the annual reporting period or deadline should be tied to the production of Scoreboard;
- (d) each annual issue of Scoreboard should itself be given a title which includes its year (e.g. Scoreboard 2011), not an edition number such as 2nd edition;
- (e) each issue of Scoreboard should indicate the period during which the data within it were collected.

3.7 The EESC has serious concerns about data collection. Inevitably, there will be significant variations in the completeness and accuracy of the data reported by different reporting organisations and from different Member States. Also the system of referrals varies between different Member States. An organisation which receives a complaint and then refers that complaint to a more appropriate organisation may or may not delete that complaint from its own database. If it does not and if both organisations report data to the Commission, the one complaint may well be reported twice. When the Commission publishes data, including in Scoreboard, the Commission should explain the known limitations as to the completeness and accuracy of the data, including the risk of double counting and lack of verification. In the longer term data should be collected and verified by one organisation at national level.

3.8 This proposal will result in enhanced reporting and understanding of how the internal market is functioning and where it is failing for consumers. It is equally important to understand how markets are failing for business, for example in relation to counterfeit products and the industrial theft of intellectual property. Such information will probably not come from consumer complaints but equally needs to be addressed. There should also be effective mechanisms, established within the Commission, for examining the extent to which the internal market is failing business.

3.9 The EESC recognises that complaints can provide a good indication of where problems may lie for consumers. However, consumer satisfaction cannot be measured through data on consumer complaints only. A variety of factors – such as personal motivation of the plaintiff and proactive behaviour of businesses, cost benefit analysis especially in case of small financial losses,

social pressure, degree of accessibility of complaint bodies, media exposure, etc. – have an influence on whether a consumer will finally complain or not. Besides, the Consumer Markets Scoreboard itself uses five indicators – complaints, prices, consumer satisfaction, switching and safety. All these indicators should be further analysed to identify malfunctioning consumer markets.

Brussels, 20 January 2010.

The President
of the European Economic and Social Committee
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