

Tuesday 9 March 2010

## I

*(Resolutions, recommendations and opinions)*

## RESOLUTIONS

## EUROPEAN PARLIAMENT

**Consumer protection**

P7\_TA(2010)0046

**European Parliament resolution of 9 March 2010 on consumer protection (2009/2137(INI))**

(2010/C 349 E/01)

*The European Parliament,*

- having regard to the Commission communication of 28 January 2009 entitled 'Monitoring consumer outcomes in the single market – Second edition of the Consumer Markets Scoreboard' (COM(2009)0025) and to the accompanying Commission staff working document entitled 'Second Consumer Markets Scoreboard' (SEC(2009)0076),
  - having regard to the Commission communication of 2 July 2009 on the enforcement of the consumer *acquis* (COM(2009)0330),
  - having regard to the Commission report of 2 July 2009 on the application of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (COM(2009)0336),
  - having regard to the Commission communication of 7 July 2009 on a harmonised methodology for classifying and reporting consumer complaints and enquiries (COM(2009)0346) and to the accompanying draft Commission recommendation (SEC(2009)0949),
  - having regard to the Commission staff working document of 22 September 2009 on the follow up in retail financial services to the Consumer Markets Scoreboard (SEC(2009)1251),
  - having regard to its resolution of 18 November 2008 on the Consumer Markets Scoreboard <sup>(1)</sup>,
  - having regard to Rules 48 and 119(2) of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0024/2010),
- A. whereas the Consumer Markets Scoreboard (the Scoreboard), along with the Internal Market Scoreboard, aims to improve the functioning of the internal market and make it more responsive to the expectations and concerns of citizens,

<sup>(1)</sup> Texts adopted, P6\_TA(2008)0540.

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- B. whereas, in the political guidelines for the next Commission, President Barroso calls for a more systematic and integrated approach to completing the single market, for example through 'a market monitoring initiative',
- C. whereas the 499 million consumers in the EU are central to the effective functioning of the internal market and have a crucial role to play in achieving the Lisbon agenda goals of increasing growth, employment and competition, since consumer expenditure generates half of the EU's wealth,
- D. whereas, as part of the Post-Lisbon Strategy 2020, policy on consumers should be geared to sustainable development which respects the environment and devotes attention to the social dimension of the internal market,
- E. whereas an internal market that responds efficiently to consumer demands also helps to deliver a more innovative and healthy economy, given that efficient and responsive consumer markets across the economy are key drivers of competitiveness and citizens' welfare,
- F. whereas a well-functioning internal market should offer consumers a wide choice of high-quality products and services at competitive prices and, at the same time, a high level of consumer protection,
- G. whereas it is in their role as consumers that most EU citizens experience the internal market on a daily basis,
- H. whereas the effectiveness of consumer policy will be enhanced by consumers and businesses knowing their rights and obligations under existing legislation and being able to apply them to their commercial transactions,
- I. whereas confident, well-informed and empowered consumers are key to the efficient functioning of markets, as they reward traders who operate fairly and respond best to consumers' needs,
- J. whereas an active consumer policy – by creating informed and empowered consumers who will in turn demand high quality products and services – will play an important role in making the European Union globally competitive, dynamic, and innovative,
- K. whereas the increased complexity of retail markets, and particularly the retail services market, makes it more and more difficult for consumers to make an informed choice when purchasing goods and services,
- L. whereas a coordinated approach to consumer education is necessary for enabling consumers to act confidently when exercising their rights,
- M. whereas consumers have a right to compensation when they are affected by illegal practices, but in reality they face substantial barriers in bringing such cases to court due to high costs, long and complex procedures and the risks associated with litigation,
- N. whereas the Scoreboard shows that only four out of ten consumers find it easy to resolve disputes with sellers and providers through alternative dispute-resolution mechanisms and only three out of ten find it easy to resolve disputes through the courts,
- O. whereas about half of EU consumers who make a complaint are not satisfied with the way their complaint is dealt with and only half of them take further action,

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- P. whereas the economic crisis has increased pressure on low-income consumer groups, who are spending most of their revenue on food and housing, and whereas growing numbers of consumers are consequently becoming over-indebted,
- Q. whereas the cross-border dimension of consumer markets is growing rapidly with the emergence of e-commerce but consumers remain reluctant to reap the benefits that market integration provides, mainly because they do not feel confident that their rights will be equally protected when making cross-border purchases and because of uncertainty over the right to compensation,
- R. whereas a high level of consumer protection is crucial for the development of cross-border trade within a single market that meets consumers' needs,
- S. whereas the increasing cross-border dimension of consumer markets brings new challenges to enforcement authorities, which are constrained by jurisdictional boundaries and the fragmentation of the regulatory framework,
- T. whereas the Commission and national enforcement authorities need to increase their efforts in order to achieve a high level of consumer protection and to furnish consumers with the confidence to exploit the single market to its full potential,
- U. whereas EU consumer protection rules serve little purpose if they are not properly transposed, implemented and enforced at national level,
- V. whereas, once national legislation is in place, the Commission should be active in helping national authorities to apply the legislation in a correct manner,
- W. whereas, given the current economic downturn, strong and consistent enforcement is all the more important, as the crisis is causing increased consumer vulnerability, and low compliance levels may lead to additional consumer detriment, while enforcement authorities may face increased pressure on resources and must carefully establish their priorities and maximise the impact of their activities,
- X. whereas the European Parliament and national parliaments can actively contribute to improved transposition and enforcement of consumer protection legislation by continuing to work closely together,

**Introduction**

1. Takes the view that the appointment in 2007 of a dedicated Commissioner for Consumer Affairs and her strong personal engagement, great openness and very proactive role brought about progress in European consumer protection policy and consumer issues, much to the benefit of EU citizens;
2. Fears that splitting responsibility for consumer affairs between two Commissioners' portfolios may lead to a reduction of the consumer focus in the new Commission and, similarly, fears that the new organisational structure in different Directorates-General may cause fragmentation or adversely affect the coherence and effectiveness of consumer policy;
3. Stresses that, following the entry into force of the Lisbon Treaty, Article 12 of the Treaty on the Functioning of the European Union reaffirms – as a provision of general application – that consumer protection requirements should be taken into account in defining and implementing other Union policies and activities; calls on the Commission, therefore, to ensure the effective integration of consumer interests into all EU policies, and to examine in its impact assessments the potential effects of any new legislation and policies directly or indirectly affecting consumers; urges each relevant Commission Directorate-General to publish an annual report on how consumer policy is integrated into its area of responsibility;

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4. Stresses the need for an active consumer policy to enable citizens to benefit fully from the internal market; considers that an active consumer policy is all the more essential in the current economic crisis to support social policy in fighting against growing inequalities and to protect vulnerable consumers and low income groups;

5. Emphasises that consumers should be able to make informed choices, without being subject to psychological conditioning by producers making tendentious or untruthful claims about products, as this generates greater competition among traders to raise the quality of the goods and services they provide and to keep prices at competitive levels;

6. Believes that a responsible approach by the business world, with respect for the principle of corporate responsibility, the rules of competition and consumers' economic interests, will help inspire confidence among consumers;

7. Reiterates that consumer organisations have a crucial role to play in alerting public authorities to the problems consumers experience in their daily lives and that the instruments at their disposal should be improved in order to improve their capacity to act effectively at EU and national level; calls on Member States to ensure that consumer organisations are adequately consulted at all stages of decision-making process and in the transposition and implementation of consumer law;

8. Calls on the Commission and the Member States to strengthen consumer awareness and training in order to empower consumers throughout their lives; encourages Member States to ensure that clear and intelligible information is provided, in particular, to young consumers for products and services aimed at them; encourages, in particular, Member States to include consumer aspects in their national curricula at all levels of education in order to equip children with the necessary skills to take complex decisions later in life, and to consider educational programmes for parents and adult consumers, with the longer-term aim of developing and consolidating consumer awareness; points out that these programmes should be geared to educational requirements and student capabilities at each level while making use of modern teaching methods based on real-life experience and examples; recalls that educated consumers who are aware of their rights and who know where to turn in the event of non-compliance are also important for detecting non-compliant behaviour;

9. Stresses the need to promote sustainable consumption, emphasising the fact that service providers and retailers, as well as consumers, must be better educated and informed with regard to the concept of sustainable consumption so that they can adapt their behaviour accordingly;

10. Urges the Commission and the Member States to launch a well-targeted communication strategy in order to raise awareness amongst EU citizens of the risks of exposure and of their rights as consumers, in particular by putting in place user-friendly web portals, awareness-raising campaigns and information points at local, regional and national level; stresses the need to use specific communication channels to reach the most vulnerable consumers, by ensuring the reliability, credibility and impartiality of the organisations responsible for the management and organisation of communications media;

### ***The Consumer Markets Scoreboard***

11. Reaffirms that the Scoreboard is an important tool for improved monitoring of consumer markets, with a view to providing information useful in ensuring better policymaking and regulation, and also for demonstrating to citizens that their concerns are duly taken into account;

12. Welcomes the five main indicators in the Scoreboard – complaints, prices, satisfaction, switching and safety – which are important in identifying those markets at greatest risk of malfunctioning in terms of economic and social outcomes for consumers; considers, however, that criteria should also be applied which will make it possible to measure the extent to which goods and services accord with the objective of sustainable development;

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13. Acknowledges that, although the five indicators do not capture all aspects of the consumer environment, they provide a sufficient basis for setting priorities and drawing conclusions as to where further analysis is needed, provided that the information provided by Member States is comprehensive and can be compiled on an easily comparable basis;

14. Considers that the current evidence on consumer complaints, prices, satisfaction, switching and safety is still not sufficient to draw definite conclusions and that more high-quality data are needed in order to develop a solid consumer evidence base; stresses that indicators therefore need to be further developed and data collection needs to be organised taking into account the differences between national systems;

15. Suggests that, once the five basic indicators and the associated methodology have been sufficiently developed to produce results of high quality, the Commission should consider including in the Scoreboard additional long-term indicators such as those relating to market shares, quality, advertising, transparency and comparability of offers, indicators related to enforcement and consumer empowerment, social, environmental and ethical indicators, as well as indicators to measure redress and consumer detriment; considers, however, that this should be done gradually in order to ensure a focused and intelligible Scoreboard, with a view to ensuring a more comprehensive approach to consumer protection and enabling consumers to benefit fully from the advantages offered by the internal market;

16. Reiterates that the Scoreboard should cover all the main categories of consumer expenditure, in order to identify the most problematic markets and set the ground for further, more detailed sector-specific analysis, in particular where evidence reveals problems common to different markets; calls, therefore, on the Commission and the Member States to ensure adequate financing and staffing for the further development of the Scoreboard;

17. Is aware that consumers are less satisfied, and experience more problems, with services than with goods, which partly reflects the greater complexity of contractual relations and of delivery in respect of services; urges the Commission to carry out in-depth analyses of all problematic sectors identified in the Scoreboard; calls also on the Commission to ensure that such exercises are followed up, where appropriate, with specific legislative initiatives and policy recommendations for Member States, and to provide feedback to Parliament;

18. Welcomes the interest and quality of the work done by the Commission in its study on retail financial services, published as a follow-up to the Scoreboard; notes the problems identified in the field of financial services, further aggravated by the financial crisis; welcomes in particular the revelations which emerged from this study regarding, for example, major problems concerning the transparency and comparability of current-account costs in the EU; considers that all appropriate conclusions should be drawn as to the need for better regulation of this sector;

19. Points out that, while consumer complaints are important in detecting market malfunctioning, an absence of complaints does not always mean that markets are functioning well, since in some Member States consumers have less of a tendency to complain due to different consumer traditions or perceptions of the likelihood of success; points out, on the other hand, that a high number of complaints in a single Member State should not necessarily be interpreted as a sign of a failing market but may be due to the presence of effective complaint-handling bodies or a recent information campaign on consumer rights;

20. Notes that there are more than 700 third-party organisations collecting consumer complaints in the EU but the arrangements for doing so differ considerably and relatively few such organisations collect data about the nature of the complaint and the sector concerned; considers that, while this might be sufficient for purposes of offering advice or information, it is not at all adequate for identifying potential market failures from a consumer perspective; calls on all complaints bodies, therefore, to adopt a harmonised methodology for classifying and reporting consumer complaints and encourages them to report complaints data corresponding to all fields – recommended and voluntary – proposed by the Commission in its draft recommendation; believes that the development of a harmonised methodology will allow Member States to collect more meaningful data and to construct a more complete picture of national consumer markets, leading to the establishment of an EU-wide database which will enable comparison of consumer problems across the EU;

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21. Draws attention to the analysis of the available price data which shows unexplained cross-border variations in a number of goods and services; considers that, although price differences are often linked to differences in demand, expenditure levels, taxes or cost structure, they are also often a sign of internal market fragmentation or malfunctioning; suggests that, where the price of a given product is higher than a benchmark, it is necessary to look at the relationship between import and consumption prices and to examine carefully the reasons for the different price levels;

22. Believes that the available price data are not sufficient for monitoring the internal market properly and calls on the national statistical offices and Eurostat to work together with the Commission to provide more data and to develop further the methodology for collecting average prices of comparable and representative goods and services; recalls, in this context, that national statistical offices need to validate, and to participate more fully in the work of gathering data on, and calculating, average prices; stresses that the provision of more transparent price data would inspire greater confidence among consumers and would show them that their everyday concerns are being addressed;

23. Acknowledges that consumer satisfaction is an important indicator in understanding how well or poorly markets are delivering for consumers; asks the Commission to develop further its methodology and measuring techniques for carrying out consumer satisfaction surveys and to cover additional sectors in the future;

24. Holds the view that the ability to switch providers is an essential feature of competition in a market economy; urges the Commission and the Member States to take measures to facilitate switching in all important retail services;

25. Notes that surveys indicate a generally high level of consumer confidence in product safety although consumer perceptions of safety differ significantly between Member States; asks the Commission and the Member States to improve the data currently available on the safety of consumer products, which are compiled mainly on the basis of reported accidents and injuries from defective products, or through risk notification systems; stresses in particular the need for vigilance on the safety of toys;

26. Urges all Member States, in the interests of improving consumer safety, to collect systematically and record details of accidents or injuries in a common database;

27. Notes that the prevalence of cross-border activity still varies significantly across the EU, and although average expenditure on cross-border purchases is considerable (EUR 737 per person per year), the great majority (75 %) of retailers sell only to consumers in their own country, while only a quarter of EU consumers make cross-border purchases; considers that, while there are a number of structural barriers, such as language, distance, and differences in consumer protection law, stronger consumer confidence would substantially increase the levels of cross-border trade; considers that the development of cross-border trade should not reduce the level of regulation but, on the contrary, that it renders even more necessary efforts to maintain an optimal level of consumer protection in the EU;

28. Takes note of the fact that online shopping is becoming more widespread but cross-border e-commerce is not developing as fast as domestic shopping; asks the Commission to include in future Scoreboards more complete data on the real level of cross-border sales and the problems encountered by cross-border consumers;

29. Notes that just over half of EU consumers (51 %) feel that they are adequately protected by existing consumer measures, more than half (54 %) believe that public authorities protect their rights well and a slightly higher proportion (59 %) believe that sellers and providers respect their rights;

30. Stresses that almost a third (30 %) of EU consumers who have made a distance purchase over the Internet, by telephone or by post report that they have experienced delivery problems; notes, however, that nine out of ten of those who tried to return a purchase or to cancel a contract within the cooling-off period managed to do so;



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31. Recalls that several Member States have developed tools, such as price observatories, to monitor their national markets from the consumer perspective or comprehensive complaints systems to inform policy-making, whereas other Member States do not use data to monitor consumer markets and have difficulties in aggregating data; with this in mind, stresses the need for exchanges of best practices between Member States;

32. Emphasises that significant input from national statistical offices and Eurostat, as well as close cooperation between these bodies, the Commission, consumer policymakers, national enforcement authorities and consumer and business organisations, will be crucial in ensuring the quality and completeness of data and further developing the evidence base needed; calls on Eurostat, the Member States and all stakeholders to take steps to facilitate such cooperation;

33. Takes the view that market-relevant data can play a crucial role in driving both innovation and competitiveness; emphasises, therefore, the importance of the Scoreboard as an enabling tool for identifying consumer preferences and demands; notes that this data can stimulate innovation by providing businesses with incentives to enter new markets and creating pressure on firms to improve their products and services;

34. Takes the view that the Scoreboard, once backed up by reliable and easily comparable data for the 27 Member States, should serve as a rich source of comparative data for national policymakers in competition, consumer and other policy areas and should help them to identify at national level the markets that do not function well for consumers;

35. Calls on the Commission to benchmark the consumer environment in each Member State, taking account of differences in consumer law and consumer traditions; reiterates that comparing consumer outcomes between Member States and benchmarking the consumer environment across the EU helps identify best practices and ultimately deliver an internal market that works for consumers;

36. Encourages all Member States to carry out a broad market-monitoring exercise on an annual basis in order to identify markets which are failing for consumers and to provide complete data that will allow the Commission to monitor and compare the problems faced by consumers in the internal market;

37. Maintains that the Scoreboard should not only be used to deliver a better consumer policy but must also feed through all policies that affect consumers, ensuring thereby a better integration of consumer interests into all EU policies and incorporation of the objective of sustainable development into consumer protection policy; underlines that the Scoreboard should also stimulate a more general debate on consumer policy issues;

38. Asks the Commission to develop, with the support of the Member States, a strategy to communicate the Scoreboard better to a wider audience, inter alia by ensuring that it is easily accessible and visible on relevant websites, and to promote its proper dissemination to the media, national authorities, consumer organisations and other stakeholders; considers that it is necessary to continue annual publication of the Scoreboard in a brochure and to make it available in all the official EU languages; calls on the Commission and Member States to take appropriate steps to promote the use by European citizens of the 'eYou Guide' website, which was specially set up by the Commission as a guide to citizens' rights;

#### ***Enforcement of the consumer acquis***

39. Welcomes the five priority action areas identified by the Commission in its communication on the enforcement of the consumer acquis;

40. Emphasises that the effective implementation and enforcement of EU consumer protection rules acts as a driver for increasing consumer confidence and as a forceful deterrent to businesses seeking to evade those rules; calls on the Commission to closely monitor, and help Member States with, the transposition and implementation of the EU consumer acquis; invites the Commission, in that context, to explore options, using the legal basis provided by Article 169 of the Treaty on the Functioning of the European Union, for raising the profile of consumer protection policy through measures that support and supplement Member State policies, potentially including the creation of a European Consumer Agency;

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41. Notes that enforcement across the EU is far from uniform and that most countries have strong and weak points; points out that figures show important differences between Member States in terms of budgets for market surveillance and numbers of inspectors involved; urges Member States to redouble their efforts and increase resources in order to ensure that laws protecting consumers and guaranteeing competition are enforced in retail markets;

42. Considers that enhancing market surveillance and enforcement mechanisms and applying them efficiently and comprehensively to encourage consumer confidence is crucial, as consumer spending will be an important factor for the economic recovery; takes the view that public authorities must be given more resources to investigate and ultimately stop illegal commercial practices;

43. Stresses that consumer markets evolve rapidly and enforcement authorities must be able to face the new challenges that economic and technological changes bring to their ability to be effective in a cross-border environment such as the internal market, and, in order to achieve this, efforts must be combined to make enforcement effective and consistent throughout the EU; considers that a review of the regulatory framework is also necessary to fill any regulatory gaps;

44. Encourages the establishment in all Member States of independent consumer protection agencies to provide information and bring proceedings before national courts in order to protect consumers' interests; encourages, accordingly, cooperation between consumer protection agencies in all Member States;

45. Urges all Member States to consider the benefits of introducing a Consumer Ombudsman; points out that this institution exists in some Member States as an extrajudicial body for the amicable settlement of consumer disputes and also as a consultative body working alongside the State to resolve problems falling within its remit;

46. Shares the Commission's view that alternative dispute-resolution mechanisms, such as mediation and arbitration or out-of-court settlements, can be an expedient and attractive option for consumers who have been unsuccessful in informally resolving their dispute with a trader or a publicly owned organisation providing services; urges Member States to encourage the development of alternative dispute-resolution mechanisms to enhance the level of consumer protection and maximise compliance with legislation, but emphasises that such mechanisms should complement, rather than replace, judicial or administrative means of enforcement; considers also that the setting of fixed deadlines for replies from agencies and undertakings in respect of practices reported could significantly help consumers who plan to take action to resolve a dispute;

47. Recalls that evidence shows major differences between Member States and room for improvement in terms of redress mechanisms; recalls that judicial collective redress systems currently exist in 13 Member States and calls on the Commission to provide follow-up to its Green Paper of 27 November 2008 on Consumer Collective Redress (COM(2008)0794) as quickly as possible;

48. Stresses the need for proper training and education of civil servants and judicial authorities as regards EU consumer protection rules;

49. Notes that the Consumer Protection Cooperation Network review indicates that the authorities handling cross-border cases are experiencing difficulties due to lack of resources; calls on the Commission to examine ways of securing adequate resources in order to comply with existing obligations under the Regulation on consumer protection cooperation;

50. Expresses its support for concerted enforcement actions (sweeps), in which national authorities simultaneously screen a targeted sector for compliance with EU legislation; stresses that such actions should be carried out more frequently (twice yearly), on the basis of a common methodology, and should be combined with other tools;



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51. Recognises the legal complexity surrounding the publication of the results of market surveillance and enforcement activities, and the fact that investigative work is often subject to strict confidentiality rules, but holds the view that the Commission and the Member States should make such results public, providing a breakdown by individual company, in cases where a recurrence of illegal practices has been identified; considers that this will ensure greater transparency, give more visibility to the national authorities' enforcement work and enable consumers to make well-informed choices;

52. Calls for the strengthening of market surveillance structures in all Member States so that products circulating on their markets meet high safety standards and defective or dangerous products are rapidly removed from the market; calls on the Commission to monitor and periodically revise the guidelines for the rapid alert system, RAPEX, in order to improve its functioning;

53. Calls on the Commission, in this connection, to do more to monitor the Member States' implementation of the market surveillance regulations, particularly Regulation (EC) 765/2008, and, if necessary, to bring infringement proceedings without delay;

54. Supports the Commission's efforts to analyse the latest technical surveillance possibilities in order to ensure global traceability of products throughout the supply chain (e.g. using RFID tags or barcodes); calls on the Commission to present to Parliament its current initiatives and latest findings in relation to the development of a global traceability network;

55. Recalls that the European Consumer Centres Network needs appropriate funding in order to promote consumer confidence by advising citizens on their rights as consumers and by providing easy access to redress in cases where consumers have made cross-border purchases;

56. Points out that, given the ever-growing volume of imports into the EU from third countries, customs authorities have an important role in protecting consumers from imported unsafe products, and that ever-closer cooperation is therefore required between market surveillance and customs authorities and also between the customs authorities of different Member States;

57. Stresses that ensuring the safety of products circulating within the internal market necessitates combining efforts with third-country authorities; supports, therefore, the Commission's initiative to step up international cooperation and pursue formal agreements with enforcement authorities in third countries, in particular China, the USA and Japan; notes that continued dialogue and information-sharing on product safety is in the interest of all parties and central to building consumer confidence; calls on the Commission to report back to Parliament on its dialogue with third countries at regular intervals;

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58. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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