

# Health & Consumer Protection Directorate General

## ***Explanatory Screening Croatia + Turkey***

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**Consumer Acquis**

*by*

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# Article 153

- To promote the interests of consumers and to ensure a high level of consumer protection:
  - Health
  - Safety
  - Economic interests
- To promote the right to information, education and the right to organise in order to safeguard consumer interests
- Integration in other Community policies and activities
- Contribution to the completion of the internal market (article 95)
- In addition to national policy measures Member States retain the power to adopt more restrictive measures.

# *EU B2C Market some facts (EU 15)*

What they show:

- Business and consumer activities is an important part of the economy
  - Competition becoming more complex
- Consumers lack confidence in the internal market
- The rules are not fully harmonized
- Consumers are missing out on opportunities
- Consumer rules increase consumer confidence, which is good for the economy and not a cost

# *Key aspects of Consumer Policy*

- Directly relevant for EU citizens (**quality of life**)
- Ensures that consumers benefit fully from the Internal Market (**competitiveness**)
- Aim to ensure that consumers can buy – what they want, wherever they want - without thinking about borders
- Articles 153 and 95 of Treaty of European Union
- Essential complement to national consumer policy (but move towards harmonisation in certain cases)
- Problem of fragmentation of consumer protection rules
- Pragmatic approach regarding instruments
- Scope: Economic interests of consumers + non-food product safety issues

# *The Acquis*

- 16 directives (+ 1 Regulation) = 13 before 2000, covering pre contractual elements, contracts as well as enforcement
- 4 recommendations, notably out of court settlement of disputes
- *pm* other EU legislation providing consumers with rights of protection (e.g. *transport, financial services, access to the courts*)
  - Not all aspects of consumer protection covered
  - Minimum standards (Member States can go beyond)
  - Transposition not uniform
  - Fragmentation
  - No uniform level of protection for consumers, no level playing field for companies

# *The Consumer Policy 2002-2006*

1. High common level of consumer protection
  2. Effective enforcement of consumer protection rules
  3. Involvement of consumer organisations in EU policies
- + Better “evidence base” + Integration

# **Objective 1**

## ***A high level of consumer protection***

### **Main Actions**

- Consumer safety (see slide)
- Common rules regarding unfair commercial practices (see slide)
- Consumer credit

# Objective 1 – Consumer Safety

## ■ General Product Safety Directive

- General regulatory framework for non-food products
- Only “safe” products may be placed on the EU market
- Generic safety requirements are established by the Directive
- More precise safety specifications are established in technical standards
- Producers, importers and distributors to ensure post-marketing surveillance of their products and take measures if needed
- Producers, importers and distributors to inform the authorities of dangerous products
- EU Member States responsible for market surveillance and enforcement



# Unfair Commercial Practices Directive

## Scope

- B2C
- Consumer's economic interests

## Issues not covered

- Health, safety, taste and decency, contract law, competition law

**Maximum harmonisation:** in one set of rules in all Member States

## Structure

### ■ General clause

- Distortion of consumer's economic behaviour
- Contrary to "professional diligence"
- "Average consumer" test

### ■ Misleading and aggressive practices

#### ■ "Black list" (Catalogue of practices banned upfront)

- Falsely stating that a product will be available for a limited time
- Falsely claiming that the trader is about to cease trading or move premises
- Pyramid promotional schemes
- Claiming that products are able to facilitate winning in games of chance
- Direct exhortation to children to buy or persuade others to buy

**Adopted 11.5.05 – applicable on 12.12.07. Member State Expert Groups. Involvement of stakeholders.**

## Objective 2

### ***Effective enforcement of consumer protection rules***

It is not enough to have legislation on its own ...

#### **Priority Actions:**

- Development of an administrative co-operation framework between Member States (network of enforcement authorities) – *see slide*
- Assistance mechanisms for consumers :  
European Consumer Centres, development of ADRs (alternative dispute resolution mechanisms)

# Regulation on consumer protection cooperation (CPC)

- **Aim**: to ensure that the **collective interests of consumers** and legitimate businesses are effectively **protected against dishonest traders** in intra-Community, cross-border situations, thereby reinforcing confidence in the internal market in B2C sales.
- **Main provisions**: CPC creates a **network of public authorities** responsible for the protection of consumer economic interests (defined by an exhaustive list of 16 legal acts to date, from unfair commercial practices to timeshare to guarantees, from consumer credit to e-commerce etc), partially harmonises their investigation and enforcement powers and provides mutual assistance arrangements between them. CPC establishes **an IT system for communication** between the competent authorities. It also provides for the possibility of concluding **international agreements** between the EU and third countries.
- **State of play**: **adopted** at the end of 2004, implementation work is under way. The provisions on **mutual assistance will apply from end 2006**, the other provisions (Committee, community activities, international agreements) apply from end 2005. A Regulatory Committee of the MS has been established – it first met on 19 January. The IT system is being developed.

## **Objective 3**

### ***Involvement of consumer organisations in EU policies***

- ECCG (European Consumer Consultative Group)
- Setting up of education project (see slide)
- Capacity-building projects
- Information campaigns

# **Objective 3 – Consumer education**

- EU dimension (cross border dimension, pooling efforts, best practices)
- Projects
  - Consumer diary
  - Teaching modules in adult education
  - University: Master degrees
  - Training of professionals of consumer organisations

# Consultation mechanisms

- Standard consultation instruments (website ...)
- Internal
  - Inter-service group on Consumer policy
- with Member States
  - Consultative Committee of the Member States (financial framework)
  - Consumer policy network (High level officials)
  - Safety Committee of the Member States (*General Product Safety directive*)
  - Future : Committee for administrative co-operation with Member States (regulation on administrative co-operation + for unfair commercial practices)
  - European Consumer Centres (national partners + Member States)
- with Consumers organisations
  - European Consumer Consultative Group (representatives of European and national consumer organisations)

# Financial Instruments

- Specific projects (grants) with non-profit organisations: **50-75% financing** [*this instrument will be discontinued in the new programme 2007-2013*]
- Operating grants for European level organisations (Beuc, Anec): **50-95% financing**
- Joint actions with Member States (Consumer centres, administrative cooperation, product safety and market surveillance): **50-70% financing**
- Master degree courses in consumer issues: **85% financing + scholarships** [*new programme 2007-2013*]
- Commission “own” actions through call for tenders: **100% financing**
- Total ±20mio € Dec. No 20/2004/EC [*idem new programme 2007-2013, with slightly lower amount for first years*] + annual work programme

# What is next ?

- The acquis review (see slide)
- A new programme 2007-2013 (see slide)
- A full consumer strategy 2007-2013





# The Review of the consumer acquis: Background and state of play

## SCOPE

- Doorstep selling
- Package travel
- Unfair contract terms
- Timeshare
- Distance selling
- Price indication
- Injunctions
- Sale of consumer goods and guarantees

The objectives of the review

# The Review of the consumer acquis

## The objectives of the review

- Rationalisation (coherent regulation of commonalities, e.g. right of withdrawal is differently regulated in timeshare and distance selling directive);
- Clarification (clearer definition of legal concepts in the acquis, e.g. effects on the contract of failure to provide pre-contractual information);
- Modernisation: updating to reflect market developments (e.g. timeshare like products; e-bay).

**> need to take stock and assess how the consumer regulatory framework is working in practice**

# The Review of the consumer acquis

## State of play : the diagnostic phase

- Step 1: Ensuring compliance
  - Transposition checks i.e. evaluation of how the various Directives have been transposed
  - Presentation of a Communication on the review of the consumer acquis – 4th quarter of 2006
  - Possible infringement proceedings
- Step 2: Development of a knowledge base
  - Comparative analysis of the application of the Directives in the Member States – second semester 2006
  - Development of a database of the *acquis*, containing national legislation and case law – second semester 2006
  - Reprioritisation of CFR workshops, and refocusing on consumer contracts.

# The Review of the consumer acquis

## State of play : the diagnostic phase

### ■ Step 3: Consultation

- Formal launch with the publication of the Communication in 4th quarter 2006
- Standing committee of Member States experts - kick off meeting December 2005
- Separate meetings on specific directives throughout 2006
- Informal stakeholder consultation throughout 2006

# The Review of the consumer acquis

## Possible options for reform

- No action" option and non regulatory measures to be considered
- Vertical vs horizontal approach
- Mixed approach: Horizontal instrument underpinned by vertical legislation
- Supporting Impact Assessment(s)

## Key messages

- Review/assessment: simplification, clarification and improvement of regulatory framework
- Diagnostic phase to last till end 2006
- Outcome not yet known

# *Future Consumer Programme*

## **The Commissions proposals COM/2005/115 (6 April 2005) and COM/2006/235 (24 May 2006)**

- For the period 2007-2013 (new financial perspectives)
- Consumer Programme only
- Lower budget than initially requested in health + consumer proposal: from € 235 mio representing a doubling of consumer budget over the period (€ 42 mio in 2013) to € 156,8 mio representing +/- 2006 amount (€ 24 mio in 2013)
- Two main objectives: 1) a high level of consumer protection and 2) the effective application of consumer protection rules
- Continuity in policy with strong emphasis on enforcement, data gathering, information & education

***For further information  
see  
Consumer Affairs website:***

[http://ec.europa.eu/comm/dgs/health\\_consumer/index\\_en.htm](http://ec.europa.eu/comm/dgs/health_consumer/index_en.htm)

***Thank you !***