

# DIMENSIONS AND PERSPECTIVES OF CONSUMER PROTECTION POLICY IN THE EUROPEAN UNION

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## **Abstract:**

*European consumer policy is central to one of the Commission's strategic objectives, that of contributing to a better quality of life for all. The Member States adopted policies aimed to protect specific interests of consumers, which play a key-role – economically and politically – within the society.*

*By empowering them with a number of rights, the Member States created policies for reducing inequalities, eliminating unfair practices, promoting safety and optimizing general living standards. The methods used for ensuring these rights depend upon the differences between legal systems, social and cultural traditions, institutional and political decisions.*

*As a distinct policy at the European Union level, the consumer protection policy evolved greatly over years, becoming more and more articulate and coherent, aiming at creating an efficient and comprehensive foundation for ensuring consumer rights.*

*The paper aims to underline the main dimensions and perspectives of this extremely important policy – which contributes essentially to the wellbeing of Europe citizens.*

**Key words:** consumer protection, consumer policy, European Union

**JEL classification:** D18

## **1. INTRODUCTION**

As carriers of the demand for goods, consumers play a fundamental role in the market mechanism, being the reference element of all activities undertaken by producers and distributors.

Real market economy mechanisms involve however many difficulties and flaws that may affect consumers by diminishing their sovereignty. To list just a few constraints, we may mention: limited freedom of choice, standardized and abusive contract clauses, manifestations of monopoly, lack of market transparency, misleading advertising, inadequate product safety, limited access to knowledge of relevant legislation, to justice – all these affecting consumers' interests and rights.

Since citizens - regarded as consumers - play a key role in society (economically and politically), developed societies seized upon the necessity to address such imbalances, calling for an effective, proper consumer protection mechanism.

The importance and timeliness of such a policy is even greater as it should be applied nationally, as well as regionally and globally, due to intensifying trade development, increasing mobility of population and the need for multinational cooperation.

## **2. EVOLUTION OF CONSUMER POLICY IN THE EU – BRIEF SUMMARY**

Over the years, member countries of the European Community introduced national regulations to satisfy domestic consumers needs, but alongside the progress of integration of national markets and strengthening the single internal market it appeared obviously necessary that European institutions were to ensure a high and equal consumer protection at Community level, particularly through legal instruments and action programs aimed at harmonizing the conditions and commercial requirements in the European Union (EU) and at providing an equitable position of market participants [2].

The development and implementation of consumer policy in the EU appears as a gradual process, conducted in parallel with internal market dynamics, accelerated after the adoption of the Single European Act in 1986.

Increasingly diverse range of products and services offered within an extensive market and anti-competitive practices of producers and traders often created difficulties for consumers unable to protect their interests in an environment where trade transparency was insufficient.

The progress of European integration, both on economic and social level, determined an evident need for a freestanding and harmonized consumer protection policy.

Historical highlights of consumer policy in the EU show that its development comprises several stages, but it was mainly based on various articles of the main EU treaties (Rome - 1957, Maastricht - 1992, Amsterdam - 1997, Lisbon - 2007) provisions.

In 1975, the *Preliminary Programme* of the European Economic Community for a consumer protection and information policy set out the five main consumer rights at European level [2], thus creating a solid base for further developments. It also underlined important horizontal aspects of consumer policy, its objectives being integrated into other Community policies such as Common Agricultural Policy (CAP), environmental policy, transport and energy policies - all affecting EU consumers.

Further on, other multiannual programs on consumer policy were set out, all facing significant resistance of economic interest groups, which hampered the development of consumer policy at Community level [2]. These programs focused on representing consumers through the Consumer Advisory Committee, consumer information, product safety, cross-border payments, unfair contract terms etc.

The Amsterdam Treaty (entering into force on May 1<sup>st</sup>, 1999) represents the main legal basis for EU consumer protection, including new rules addressing specific concerns of citizens regarded as consumers in securing and protecting their rights, recognizing in a relevant manner consumer policy as a self-reliant policy in the EU. The legislative framework for consumer policy was represented by articles 3, 10 and 153, which set primary regulations. The treaty gave the European institutions increased responsibilities in promoting consumers rights to information and education, and also the right to organize in order to ensure efficient protection, which meant an official recognition of the consumer organizations' crucial role.

Consumer policies, strategies and action plans in recent years show increased efforts towards consumer protection, addressing several key-issues, both on horizontal and vertical level.

Regarded as a sample of a "relatively young EU policy" with "an ambitious agenda" [6], 2007-2013 EU consumer policy proposed to refocus European regulation towards citizens oriented outcomes; to address market failures that impair consumer welfare; to insure better access to essential services at proper prices; to provide the market tools to empower consumers to make sustainable environmental choices.

EU consumer policy for 2007-2013 also takes into consideration present challenges, aiming to re-connect with its citizens and basing itself on the Commission's vision [6]: "to be able to demonstrate to all EU citizens by 2013 that they can shop from anywhere in the EU, confident they are equally effectively protected; and to be able to demonstrate to all retailers that they can sell anywhere on the basis of a single, simple set of rules". In summary, its main objectives mean greater power and increased welfare for the consumers [5], along with a more effective protection against risks and threats.

## **ACTUAL ISSUES AND APPROACHES FOR CONSUMER PROTECTION IN THE EU**

### **2007-2013 Consumer policy – goals and perspectives**

Adopted by the Commission on 13 March 2007, the European consumers strategy established priorities and actions of EU consumer policy for this period, underscoring actual challenges and roles. Main *priorities* of this strategy include [14]:

- Increasing consumer confidence in the internal market; this would allow authorities to establish a common legal framework that is equivalently implemented all over the EU, creating the

premises both to effectively protecting consumers and in the same time emulating the competitive business environment;

- Reinforcing consumers' position in the marketplace by providing sustainable education tools, in order to empower consumer organizations to act as an active stakeholder by intensive involvement in policy making;
- Guaranteeing the fact that consumer needs and concerns are actually integrated in all EU relevant policies;
- Complementing Member States' consumer policies;
- Gathering consumer-related data to soundly ground any development of regulation proposals and other similar initiatives.

Subsequently, Decision No. 1926/2006/EC of the European Parliament and of the Council established a programme of Community action in the field of consumer policy, constituting the financial framework of Consumer policy with a total of €156.8 million in funding for its duration [14].

In 2011, the mid-term evaluation of the 2007-2013 Consumer Policy [6] shows that despite the fact that European consumer policy is a relatively new field and that the level of EU funding under the Programme is relatively small, specific actions contribute to the Europe 2020 objective of a smart, sustainable and inclusive growth. Also, the policy turned out to have been increasingly successful in the integration of consumer policy into EU policies.

### **Consumer market monitoring**

Using instruments as Consumer Market Scoreboard, Consumer market monitoring (CMM) has played a key role in supporting consumer policy, serving to proper integration of consumer concerns into EU policies and the design of effective legislation and allowing understanding of actual consumer behavior.

The 6<sup>th</sup> edition of the Consumer Markets Scoreboard (2011) [3] provides relevant market monitoring survey results: new data on choice and the level of competition experienced by consumers; an overview of the performance of its consumer markets for each Member State - thus serving as useful basis for setting national enforcement priorities, due to the fact that CMM helps identify weaknesses in national markets.

Regarding consumers' attitudes, an analytical report published in 2011 [9] delivers useful insights into EU consumers' attitudes and experiences with cross-border shopping and their perceptions about consumer rights within the EU's internal market. A growing majority of EU consumers agreed that, in general, sellers and providers respected their rights as consumers.

A similar report [10] provides significant data about retailers' attitudes towards cross-border trade and consumer protection, emphasizing several sensitive aspects related to insufficient knowledge about specific consumer issues.

### **Product safety**

Product safety remains a key-concern in the EU, inferring: early warning on dangerous products, international cooperation, banning the marketing of dangerous products, ensuring the safe use of chemicals (using REACH framework and set of rules).

In each EU Member State, surveillance authorities bear the responsibility to ensure that products meet general and specific safety requirements, otherwise authorities can act by issuing warnings, withdrawing products from the market, requesting recalls from vendors, or apply any other appropriate measures. At present, coordination has increased between market surveillance authorities, allowing further strengthening surveillance and enforcement through the rapid alert systems (RAPEX for non-food products, RASFF for foodstuffs).

Basically, if a dangerous product is identified in any Member State, information on the product is submitted via RAPEX and transmitted to the other EU countries; this procedure which

optimizes cooperation between national and European authorities in order to identify and locate dangerous products and treat them according to afferent risks.

### **Consumer rights and redress**

Several issues related to consumer rights (summarized in “Ten basic principles” [1]) are constantly in focus: consumers rights to decide their buying actions, food safety, product guarantees, financial services and consumer credit, price transparency, unfair contract terms and business practices, holidays packages, timeshare, air travel.

At present, the legislative developments in the EU enable a greater level of harmonization, but consumer access to redress mechanisms remains insufficient. There is a clear need to increase consumer awareness in terms of means of redress - consisting of: seeking professional advice at national consumer authorities, national consumer associations/organizations, the European Consumer Centers Network (ECC-Net), FIN-NET (Network for settling cross-border financial disputes out of Court), Solvit (online problem-solving network addressing misapplication of single market rules by public authorities).

Consumers – individually or acting as organizations – may take court action at national level or choose alternative dispute resolution (ADR) schemes, which are designed to facilitate disputes solving by avoiding costly and time-consuming court classic procedures.

Particularly, the actual strategy and programmes have provided increasing support for consumers seeking advice on cross-border disputes through ECC-Net. Main ADR types that address consumer disputes include conciliation, arbitration and mediation - schemes provided usually by trade associations using a third party (an arbitrator, mediator or ombudsman) to provide solutions.

### **Consumer organizations**

EU Programmes provide effective support for national and regional consumer organizations, given their crucial role for ensuring the representation of consumer interests in policy making. Training (capacity building) provided to national consumer organizations is important to empower their members, to “helping consumers to help themselves” by self-protection, based upon relevant and reliable education and information.

The influence and strength of consumer representation movements varies considerably across the EU. The European Commission supports national consumer organizations, in particular from the Member States that have joined the EU since 2004, in the belief that a strong consumer movement at a national level is essential both to a strong EU consumer movement and to well functioning national markets [6].

At the same time, the European Commission has launched a series of information campaigns among those Member States that have joined the EU since 2004, designed to raise awareness around consumer rights and the role of consumer NGO’s [8].

### **Consumer Education**

Current consumer education policy in the EU follows several key-directions, aiming to better empower consumers to fructify their rights and interests. EU priorities in consumer education include [14]: stimulate consumer education in schools and the integration of consumer skills in school curricula; make available on-line consumer information and education materials in all EU countries; promote university-level studies in consumer policy. We mention below some examples of specific actions and measures:

- *Assisting young consumers become informed*

As relevant instrument, “Europa Diary”, a school diary published by the Commission, aimed at students between the ages of 15 and 18, represent a tool for homework and school notes which also offers information on health and consumer protection, studying abroad, the environment

[14]. After adapting it to national legislation and culture, schools across the EU used over 1 million copies, helping teenagers by increasing their awareness and creating the premises for them to make more rational decisions as consumers.

- *Tools for adult consumer education*

In 2006, the Commission launched the Dolceta website. Dolceta (“Development of online consumer education tools for adults”) represent a reference point designed to enhance public access to information about relevant consumer issues. A recent evaluation report [4] points to the need of consolidating the education tools, better defining Dolceta's target audience and its content and examining the possibility to identify better synergy with national curricula.

- *Training courses for staff of consumer organizations*

The Commission organizes TRACE - a series of interactive training courses given by professionals and open solely to consumer organizations' staff in the 27 EU countries and several other European countries; their scope is capacity building by training - enabling staff to support and assist consumers across the EU become more aware of their rights throughout Europe.

Consumer training courses were the subject of a call for tenders in 2007, SANCO/2007/B1/002: “Organization of training courses for personnel of Consumer organizations from Member States, candidate countries and EEA countries” [4]. The key-characteristic of the courses was the ways in which they build capacity in consumer organizations across the EU, in effect creating a ‘value network’ that can better understand the pan-EU consumer issues, share knowledge and expertise, and lead to better supported and more informed consumers [13].

A 2011 Report on evaluation of consumer education, information and capacity building actions [4] analyzing relevant EU tools and mechanisms (Master Courses, TRACE, Dolceta, Europa Diary) proposes an integrated *Integrated Consumer Education* approach, which takes the resources currently allocated and re-focuses them in order to build dynamic and coherent consumer information resources for the EU level, based upon adapting information to a national context, and understanding consumer behavior and needs.

### **Cooperation between national authorities involved in consumer protection**

Regulation no. 2006/2004 (Regulation on consumer protection cooperation), established a network of national authorities in order to facilitate resolution of cross-border issues. Cooperation between these authorities through mutual assistance and exchange of information is likely to ensure better enforcement of regulations through pilot-projects and information/education campaigns. Thus, competent authorities designated by member states have the power to investigate, joint implement and act in case of breach of the provisions by timely and efficient decisions.

A 2012 Report from the Commission [12] shows that The CPC Network (the network of national enforcement authorities) has entered a phase of consolidation and stabilization of its activities, but it has yet to reach its full potential as further efforts are needed to address shortcomings (many authorities rarely or never use the CPC cooperation mechanisms; difficulties involving cross-border enforcement, the need to raise the public profile of the CPC Network etc.).

### **Horizon 2014**

Looking towards the future, the proposal set in 2011 for a regulation on a consumer programme for the period 2014-2020 envisages that consumers in Europe become more active, informed and more able to sustain their rights and interests, thus contributing to economic growth [11].

Consumer Programme for 2014-2020 is sustained by a total budget of €197 million, its main target being to support EU consumer policy in the following years. Its essential objective is “to place consumers at the centre of the Single Market and empower them to participate actively in the market and make it work for them”, particularly by [14]:

- Enhancing product safety through effective market surveillance;

- Improving consumers' information, education and awareness of their rights;
- Consolidating consumer rights and strengthening effective redress, especially through alternative dispute resolution;
- Strengthening enforcement of rights cross-border.

### **Perspectives and challenges**

As the current program ends in 2013, the new Consumer Programme is designed to carry on the necessary actions and activities - in four key areas [14] :

1. *Safety*. Ensuring product safety in the EU needs coherent actions and cooperation through the General Product Safety Directive (GPSD) network. Although, recent evaluation data underline the need to reinforce coordination of national enforcement authorities, and to address the risks linked to the globalization of the production chain. Also, given the growing demand on services safety in the context of the population aging, it appears imperative “to address the increased sensitivity of food safety issues” [11].
2. *Information and education*. EU consumer information and education initiatives increase consumer knowledge and confidence in cross-border transactions, thus supporting the completion of the Single Market [11]. They facilitate best practice sharing between Member States and will contribute to the creation of a single, coherent and authoritative source of information and education at EU level. However, the proposal for 2014-2020 asserts [11]: “there is a need: for comparable, reliable and user-friendly information for consumers particularly cross border; to address the issue of poor knowledge of key consumer rights by consumers and retailers alike; for robust data on how the market is serving consumers; for increased capacity of consumer organizations especially in some Member States; to improve the educational and information tools”.
3. *Rights and redress*. As ADR schemes provide affordable and convenient solution of getting redress throughout the EU, the proposal for 2014-2020 envisage the financing of a European platform for Online Dispute Resolution (ODR), which could lead to a co-ordinated and efficient approach. In this field, there is a need to further strengthen consumer rights, in particular in cross-border situations, so that consumers are confident “that their rights are well protected in any other Member State as well as at home”[11].
4. *Enforcement*. ECC-Net remains a main contributor to the completion of the Single Market by providing advice and support to consumers on cross-border issues, since national authorities and consumer organizations are not always in position to deal with such matters. Therefore, coordinated joint enforcement actions with the CPC Network delivers a very efficient framework to address issues which have a cross-border EU dimension. Yet, the proposal for 2014-2020 aims to increase awareness about the ECC-Net among consumers and to further strengthen both its effectiveness, and the efficiency of the CPC Network [11].

### **CONCLUSIONS**

Achieving a high level of consumer protection requires a harmonized framework, standards and best practices aiming not only at products and services' safety, but also to economic and legal aspects which could allow consumers conducting safe transactions anywhere within the internal market. Priority actions should take into consideration that consumers must receive equal protection in all member countries, which involves developing a framework for cooperation between national administrations and appeal mechanisms for consumers.

To develop and implement an effective policy requires the involvement of consumers and their representatives in this process, as they also they must have the capacity and resources to promote their interests in relation to other partners. Key-actions to achieve this goal are related to mechanisms of participation of consumer organizations in policy development and in educational and institutional projects.

The European consumer policy is the center of one of the strategic objectives of the European Commission - to contribute to a better quality of life for all. Specific policies are designed to protect consumer interests - investing them with a set of fundamental rights, to reduce inequalities, to eliminate unfair practices, to promote health and safety and generally improve living standards.

Yet, evaluation reports show that there are many issues and challenges to address in the forthcoming years, namely: safety; consumer information and education; consumer rights and effective redress; strengthening enforcement cross-border. Building on solid foundation, the success of these matters' approaches will immensely determine the future of the consumer policy in the EU.

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