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|  | EUROPEAN COMMISSION  DIRECTORATE-GENERAL JUSTICE and CONSUMERS  Directorate E: Consumers  **Unit E.1 : Consumer Policy** |

Brussels, 5 July 2017

**Minutes**

**Meeting of the European Consumer Consultative Group**

**14 June 2017, Brussels**

1. **The agenda and the minutes of previous meeting of 22/02/2017 were approved.**

The Commission reminded that all members were asked to register on the Transparency Register and that all documents, agenda, opinions, minutes will be published through the Register of Commission Expert Groups, which is available for the public. The Commission is currently reviewing its communication processes and its public website is one of the channels that will see many changes. It remains to be seen how the communication of the ECCG fits into the overall structure.

1. **The purpose of this meeting is to discuss consumer policy and other policies affecting EU consumers and to agree on issuing an Opinion on the Clean Energy Package.**

The meeting is non-public.

1. **List of points discussed**
2. **Policy updates by the Commission**

The Commission gave an update on the recent policy developments, in the fields of:

* Consumer Protection Cooperation (CPC)
* Online Dispute Resolution (ODR)
* Commission’s Mobility Package
* Commission Recommendation on Car Labelling
* Product Safety

On ODR, LU expressed the opinion that a solid consultation with consumer organisations and the CPC network is needed before starting the next awareness campaign to allow them to play their role. BEUC highlighted the issue of lack of response by traders to thousands of complaints. The Commission concluded by pointing out that the Evaluation of the Consumer Programmes had started and that the members would be informed about the start of the public consultation and subsequent interviews by the Commissions Contractor.

1. **Presentation of the result of the Fitness Check of the consumer and marketing law**

The Commission gave a presentation on the results and follow-up concerning the REFIT Fitness Check of EU Consumer and Marketing Law and the Evaluation of the Consumer Rights Directive (for details see powerpoint file).

The ECCG members very much welcomed the two evaluations and shared also their findings. With regard to envisaged follow-up actions, concerns seem to exist only with regard to possible limitation of the right of withdrawal for used goods, which several ECCG members consider as not being a real issue of concern.

DE:  The representative thanked for the useful presentation and made two comments. Firstly, regarding the call for evidence for collective redress, DE asked to provide the respective questionnaire in more languages. Secondly, the representative asked for a more detailed explanation regarding the competence gaps/conflicts in respect of national enforcement authorities, mentioned under the 'coherence' evaluation criterion [The Commission referred to p. 57/58 of the Refit Check report].

LU: The representative from LU suggested that the text of the questionnaire for the online public consultation for the IA should better 'guide' the reader that the envisaged amendments are aimed to 'fine-tune' the acquis that overall is fit for purpose. Furthermore, he would rather provide the Commission with good practical cases than answering the OPC.

PT: Regarding the efficiency evaluation of the REFIT the representative from PT asked if the Commission could further explain the outcome of the consumer survey, notably what about the remaining 28% who said that they had not benefitted from the legal guarantees: does this point to shortcomings, such as denial of such right?

FR: The representative from FR noted that the REFIT results were strongly linked to CPC and asked about the Commission's work with the networks (CPC, CPN, G20, data protection). FR also expressed its concerns regarding the requests by the Commission/EU legislation for one specific national authority to be responsible for the implementation of the rules (e.g. for telecommunications sector, data protection) in the CPC proposal as in FR in some cases there were more responsible authorities. Furthermore, the representative asked about an ADR implementation report. Regarding the REFIT follow-up the representative expressed concerns about two planned amendments concerning the right of withdrawal for used goods (this may concern only a minority of consumers who abuse their right) and platform transparency. Regarding the latter FR suggested a broader scope then just market places and warned to be careful and not to place the whole liability on platforms.

IE: The representative from IE asked if there were many cases of the right of withdrawal exercised for used goods. In IE it was not an issue and possible changes should be assessed carefully.

UK: The representative mentioned that it was problematic within the CPC network when some Member States have not implemented EU law as strongly as others.  As regards online marketplaces and third party suppliers, she asked how 'traders' should be defined, either generally or for specific sectors. Furthermore, the representative asked if besides the traditional OPC it would be possible to "test" the options by consumer organisations.

NL: The representative asked if the Commission could explain more in detail the possible amendment regarding the reduction of burdens.

BE: The representative asked about more details regarding online marketplaces and the collaborative economy. Furthermore, regarding the reduction of burdens BE warned that there were still people who would not be sufficiently "digitally literate" and the "old world" should not be totally forgotten.

SE: The representative expressed his doubts about the value of the figure of an increased consumer trust in the executive summary. The increase of consumer trust does not really stem from EU law but from many other factors.

SI: The representative from SI warned of a wrong interpretation of questionnaire results as people would often answer in a way what they thought would be expected from them.

BEUC: The representative positively emphasised that the comprehensive analysis in the REFIT report is a milestone. It shows that consumer law would not create high burden and compliance costs, contrary to what is often argued. Furthermore, BEUC asked why the issue of 'used goods' was given so much importance in the OPC as business side still has not provided any evidence for their burdens (and it was a particular Danish problem). Regarding the follow-up actions on the ID, BEUC expressed its concerns that the Commission should not use the revision of the ID as excuse to do nothing on collective redress.

The Commission thanked the members for their overall positive feedback, replied to their specific queries and took note of their views regarding possible follow-up actions. ECCG member were invited to actively participate in the forthcoming public consultation[[1]](#footnote-1) to be published still in June which is part of the preparation of the possible legislative proposal scheduled for the end of 2017.

1. **Retail Financial Service Action Plan adopted on 23 March 2017**

The Commission explained that the aim of this Action Plan is to address the fragmentation of the European market for retail financial services. The Commission gave a presentation on the communication on Retail Financial Services Action Plan published on 23 March 2017. The scope of actions in the Action Plan was later outlined, explaining what problems are addressed and the actions to be taken. The Commission took note of comments raised by several ECCG Members and explained that the immediate next steps are to try to ensure that this action plan which was mostly made for cross border transactions in mind, be as balanced as possible. Many elements were introduced, such as debt-advice etc. There will not be a quick decision to be taken in order to investigate what is really the issue. First action is end of this year on transfers on non-euro currencies in dynamic currency conversion and from then onwards the Commission will address the issue on a wider scale. The Commission will look into the market and take notice of behavioural studies. Finally the Commission underlined the importance of consulting consumer organisations and businesses.

1. **Energy**
2. ECCG Opinion on the Clean Energy Package

The ECCG adopted an Opinion on the Clean Energy Package. The Commission shall notify the members of its publication.

BEUC suggested to the Commission to share the ECCG opinion with the legislators.

1. Citizens Energy Forum

Every year the Citizens Energy Forum takes place in London. The Commission gave feedback from Forum that was held from 30-31 May 2017. For the benefit of the members who were not present the Commission gave a synopsis of the main conclusions:

* Bundling of electricity and gas offers should not impede switching
* Energy efficiency of the housing stock should be improved and focus especially on alleviating energy poverty
* Establishing the responsibilities for NRAs regarding data access and control, and clarifying how these responsibilities should be enforced
* Consumers should be able to have a smart meter and a dynamic price contract
* Clarification of the differences between local energy communities and renewable energy communities

1. **Results of the Questionnaire on the Consumer Movement and follow-up**

The Commission presented the replies to the questionnaire on the consumer movement, which was a result of the discussion in the last ECCG Meeting of 22 February 2017, where members raised the challenging situation of the consumer movement in member states, prevailing "business models" and deliberated on how this could be improved in the future. The ECCG members asked that the questionnaire be looked at again and believed the methodology to collect the answers did not portray the actual situation across the EU landscape. The Commission agreed to circulate the summary of responses and invited members to volunteer for the setting-up of a working group to discuss the issue more in depth. The working group will look at the results of the questionnaire and will deliberate on issuing an action plan with a clear objective of defining the best way forward.

1. **Implementation by Member States of the Package Travel Directive**

The Commission gave an overview of the key changes and challenges introduced by the new Package Travel Directive, which will enter into force on 1 July 2018 and for which MS have a transposition deadline of 1 January 2018. The Commission also highlighted the upcoming EU-wide awareness campaign, which will include an opportunity for consumer organisations to give inputs. Finally, the Commission gave an overview of the state of play regarding the UNWTO's draft Convention on the protection of tourists, which includes a part reflecting the rules of the new Package Travel Directive.

LU welcomed the inclusion of discussion on the new Package Travel Directive and indicated an interest in assisting in the implementation process. LU noted that the Benelux consumer organisations recently sent a joint letter to their respective ministries, but there has not been subsequent action. Concerning the awareness campaign, LU stressed the importance of giving good examples and bottom-up style explanations of who would be liable in a given scenario. LU also highlighted the importance of ADR/ODR in this sector, as equitable solutions will be needed and, in practice, there exist several sector-specific ADR bodies in certain MS. Finally, LU highlighted the role of credible online intermediaries in the successful implementation of the new rules.

BE indicated that their transposition is progressing well. BE also expressed their disappointment that the right of withdrawal for off-premises contracts ('doorstep-selling') was not taken up.

UK indicated that there is still confusion concerning the place of establishment for the purposes of this Directive, e.g. would that entail the place of central activity? What will be the impact on consumer redress, e.g. if another MS's insolvency scheme does not provide for the same level of protection? In addition, there continue to be problems concerning LTAs, in particular in situations where the trader would be holding on to the payment for a limited amount of time. UK also raised the questions of what would happen in case pre-contractual information obligations are breached and what would be the information obligations for traders facilitating LTAs. UK would welcome if the EC could soon issue a Guidance document.

FR indicated that their transposition is also progressing well. FR Government consulted various stakeholders, including consumer organisations, however, the majority are business representatives. The main challenge concerns the practical implementation of LTAs. FR also indicated that they have a very protective joint and strict liability scheme, for which the consumer has a very low burden of proof. FR noted that they will not take up the right of withdrawal for off-premises contracts.

DE highlighted the alteration of the contract rules in Article 11 of the Directive as problematic vis-à-vis the existing German rules, which provide for different conditions, e.g. the possibility for the contract to be altered significantly up to the last moment, the % of the price increase etc. DE also noted that one of the leading airlines is soon to become insolvent and their understanding is that the insolvency scheme does not cover airlines. DE also highlighted the concerns raised by small independent agencies, which are not pleased with the prospect of liability and insolvency obligations.

PT indicated some concerns about the differences between the liability and insolvency regimes for packages and LTAs.

The Commission thanked LU for the support on the EU-wide awareness campaign and ensures that consumer organisations would be consulted. Concerning LU's point on redress, the use of ADR/ODR, whether sector-specific or horizontal, is certainly encouraged also for package travel. As for UK's question on pre-contractual information requirements, the Commission noted that the first trader, which is facilitating a linked travel arrangement, must simply state to the consumer in clear terms that an LTA could be concluded if certain conditions are met and that an insolvency scheme has been set up for this purpose. Concerning UK's question on place of establishment, while the Directive is not explicit on all aspects concerning establishment and its implications for insolvency protection, it is clear that generally the place of the registered seat would constitute the place of establishment. Moreover, under the rules of mutual recognition, other MS must recognise the insolvency protection which has been taken out in other MS. Such rules have removed enormous burdens for businesses and leave scope for competition between insolvency providers and regimes. Concerning the possibility of a Commission Guidance, there is some hesitation, particularly due to the lack of practical enforcement experience and the fact that the CJEU has not yet had a chance to interpret any of the key provisions of the new Directive. In addition, the Commission services are working under human resources constraints and the 2019 report that would have to be produced concerning the functioning of the Directive would already provide some insights. Concerning the FR joint liability regime, the Commission noted that the services are fully aware of it and consider that no significant adjustments thereto would have to be made in light of the new Directive. Concerning DE's comments on Article 11, the Commission noted that this provision was subject to intense discussions in the Council and, in the view of the Commission services, a delicate balance was struck between the interests of the trader and the consumer; moreover, at the time, there was no evidence of significant problems in practice. Concerning the coverage of airline companies under the new Directive, the Commission explained that airlines will also be covered insofar as they provide for packages or LTAs under the Directive; in the longer run, and provided a healthy market of insolvency protection gets developed, some positive implications could be foreseen also for single flight scenarios.

1. **Any other business**
2. Rail Passenger Rights

The Commission gave a presentation on the on-going revision of Regulation 1371/2007 on Rail Passengers' Rights and Obligations. It invited members to contribute to the public consultation on a possible initiative for multimodal passenger rights. Despite the fact that the deadline has passed the Commission is happy to receive contributions.

1. Results of exploratory study on consumer issues in online peer-to-peer platform markets

The Commission gave a presentation on the results of the exploratory study on consumer issues in online peer-to-peer platform markets. Due to time constraints the Commission invited members to send any questions to the Commission by email, copying other members.

1. Wiki tool

The Commission presented a collaborative tool, which is used by other networks (CPC and ECCs) for facilitating the exchange of information and avoiding a massive exchange of emails and documents. The tool gives a single entry point where members can find all information relative to the creation of their network and their current activities. Some members expressed concerns as to the practicality of using such a tool but would be open for a trial.

ES: For information to members, the globally ranked 16th largest bank Banco Santander has purchased another Spanish bank, the Banco Popular for 1€, with the approval of the EU; leaving consumers - once more - unprotected and making them loose their savings due to the bad management and practices of the banking/financial sector. It is obvious that the system is not working well for consumers and that the work of the national regulators is not effective.

Members expressed discontent concerning requests made to consumer organisations to provide data for free to business consultants effecting studies for the Commission. In particular, ES referred to the fact that the consultants are asking for the collaboration of the consumer associations without remuneration to fulfil the studies contracted by the EU Commission, for which contractors are paid. ES said that this issue was raised long time ago, since 3 mandates of the Commission, without a solution ever being found. Other members agreed and asked that the Commission looks into this problem seriously, changing rules, if this is necessary.

1. **Conclusions/recommendations/opinions**

The members unanimously approved the Opinion on Clean Energy.

1. **Next steps**

Annex I (See operational conclusions)

1. **Next meeting**

The next meeting will take place on 11 and 12 October 2017 in Brussels.

1. **List of participants**

Annex II (See list of participants)

1. Link to public consultation: <https://ec.europa.eu/info/consultations/public-consultation-targeted-revision-eu-consumer-law-directives_en> [↑](#footnote-ref-1)