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**Report on Consumer Policy  
(July 2010 - December 2011)**

*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
Economic and Social Committee and the Committee of the Regions**

**A European Consumer Agenda - Boosting confidence and growth**

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# Commission Staff Working Document

## Report on Consumer Policy

(July 2010 – December 2011)

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## **A. Introduction**

The present Staff Working Document responds to a suggestion formulated by the Internal Market and Consumer Protection Committee of the European Parliament (IMCO). In March 2010<sup>1</sup>, IMCO called on the Commission 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. It also urged the Commission to report on how consumer policy is integrated in relevant policy areas through concrete initiatives undertaken by the Commission<sup>2</sup>.

The overarching objective of consumer policy is to empower Europe's 500 million consumers by providing them with the tools necessary for their active participation in the market, by making products and services markets work for them, by facilitating the exercise of their power of choice and ensuring that their rights are properly enforced.

A policy that empowers consumers is one of the central underpinnings of the overall Europe 2020 objective of smart, sustainable and inclusive growth, because it contributes to raising consumer confidence while it also benefits reputable and innovative businesses by ensuring a level playing field and enabling fair competition.

This first issue of the "Report on Consumer Policy" presents the Commission's action across the complete policy spectrum from safety for products and services, information and education, rights and redress, enforcement, to consumer aspects in other policy areas. It covers the period from July 2010 to December 2011 and provides an overview of Commission initiatives (both horizontal and sectoral) having a direct impact on consumer empowerment and protection, including actions focused on vulnerable consumer groups (e.g. children, ageing consumers, reduced mobility consumers).

## **B. Safety and health**

Ensuring safety for products, services and food is the basic requirement of a sound consumer policy. It allows the EU as a whole to act effectively, within the Single Market and on the international scene, to prevent unsafe products reaching consumers, and to boost the reputation of European exports. During the reporting period, the Commission has taken a number of horizontal and sectoral initiatives in his area.

### **1. Product safety – preparation of the revision of the overall framework**

The Commission is in the process of reviewing Directive 2001/95/EC on General Product Safety (GPSD). The review aims to strengthen the confidence of consumers and businesses in the safety of products available in the internal market. It should contribute to growth by providing businesses with safety rules that are clear and easier to understand and apply. It aims also to lower compliance costs and, more generally, create a genuine level playing field for fair

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<sup>1</sup> Report on consumer protection, 2009/2137(INI), 2.3.2010, Rapporteur: Anna Hedh.

<sup>2</sup> Ibid, §3, p. 6.

playing businesses. Taking account of the European Parliament Resolution<sup>3</sup> of March 2011 on the revision of the GPSD and market surveillance the Commission intends to present a package consisting of (1) a revised GPSD; (2) a new self-standing instrument on market surveillance; and (3) a multi-annual market surveillance plan. As part of the Single Market Act, the Commission proposals are expected during the second half of 2012.

**Benefit for consumers:** the revised legal framework on product safety and market surveillance should offer a streamlined set of rules to further enhance the protection of consumers' health and safety.

## 2. Food additives and contaminants

During the reporting period the Commission's Joint Research Centre<sup>4</sup> (JRC) produced several certified reference materials to enable food and feed testing laboratories to reliably and correctly control compliance with EU legislation and thus contribute to consumer protection.

Furthermore, methods developed by the JRC were adopted as standards by the European Committee for Standardization (CEN) enabling a harmonised approach to food and feed safety control in a number of areas such as artificial sweeteners<sup>5</sup> and the detection of mycotoxins<sup>6</sup>.

**Benefit for consumers:** the use of artificial sweeteners is regulated in the EU and the standardised method developed and validated by the JRC will allow checking whether legislative limits (maximum usable dose) have been respected. Further, the ability to more accurately determine the presence of mycotoxins in foods for infants and young children should make their consumption safer.

## 3. Food contact materials

During the reporting period the Commission adopted several legislative acts to improve the chemical safety of materials and articles intended or reasonably expected to come into contact with foods such as packaging materials, cutlery, dishes, containers and articles in contact with water for human consumption. Among others the Commission established specific more stringent requirements for the manufacture and marketing of such materials and articles<sup>7</sup>, restricted the use of Bisphenol A in plastic infant feeding bottles<sup>8</sup> and laid down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from China and Hong Kong<sup>9</sup>.

**Benefit for consumers:** consumers are better protected against the risk that various chemical substances used for food packaging "migrate" from the packaging to the packaged food.

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<sup>3</sup> 2010/2085(INI), 8.3.201.

<sup>4</sup> <http://www.irmm.jrc.be/>.

<sup>5</sup> EN 15911:2011.

<sup>6</sup> EN 15850:2010 for Zearalenone; EN 15851:2010 for Aflatoxin B1.

<sup>7</sup> Reg. EU 10/2011, L 12/1, 15.1.2011.

<sup>8</sup> Reg. EU 21/2011, OJ L 87/1, 2.4.2011.

<sup>9</sup> Reg. EU 284/2011, OJ L 77/25, 23.3.2011.

## 4. Toys

The main provisions of Directive 2009/48/EU on the safety of toys<sup>10</sup> became effective in July 2011. The new regulatory framework for toys constitutes a significant step in the protection of some of the most vulnerable consumers in the EU: children. The Directive improves the existing rules for the marketing of toys that are produced in and imported to the EU, with a view to reducing toy related accidents and achieving long-term health benefits.

**Benefit for consumers:** toys should become safer since manufacturers and importers are required to facilitate traceability, carry out a safety and conformity assessment for products and chemicals used in their production. The new rules ban chemicals that are susceptible to provoke cancer, change genetic information or harm reproduction, so-called CMR (Carcinogenic, Mutagenic or toxic for Reproduction) substances, in accessible parts of toys and contain stronger provisions to prevent choking or suffocation through toys (or their parts).

## 5. Fire hazard

In November 2011 the Commission published new safety standards for cigarettes<sup>11</sup>. Evidence shows that cigarettes left unattended are one of the leading causes of fatal fires in Europe. The number of fatalities can be reduced by over 40% with the introduction of 'Reduced Ignition Propensity' (RIP) cigarettes i.e. cigarettes which self-extinguish when left unattended and are less likely to cause fire.

**Benefit for consumers:** cigarettes sold in Europe should comply with the new safety standards from November 2011. This new fire safety measure should lead to reduction of the number of injuries and fatal accidents caused by cigarette-ignited fires.

## 6. Electrical and electronic equipment

Personal music players are an example of consumer products whose health and safety risks were taken into consideration. Following a mandate from the Commission, the relevant European standards organisation, CENELEC, developed a European standard that will ensure that exposure to high sound levels from personal music players is limited in order to avoid hearing damage. The new standard was published at the beginning of 2011<sup>12</sup> and, after a transition period of 24 months, will be applied to products on the EU market.

**Benefit for consumers:** consumers and in particular children and young adults that use earphones to listen to music are better protected against hearing loss.

## 7. Motor Vehicles

Prompted by the increasing number of RAPEX notifications related to the recall of motor vehicles and motorcycles, the Commission decided in October 2010 to enhance the current

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<sup>10</sup> OJ L 170, 30.06.2010, p. 1.

<sup>11</sup> Cigarettes – Assessment of the ignition propensity Safety requirement (EN 16156:2010).

<sup>12</sup> Amended versions of the "Safety of information technology equipment" standard (EN 60950-1:2006) and "Safety of audio, video and similar electronic apparatus" standard (EN 60065:2002).

legal framework for the type-approval of motor vehicles and motorcycles through the introduction of market surveillance principles<sup>13</sup>.

**Benefit for consumers:** this initiative aims at reducing the risk for consumers to be confronted with safety problems arising from non-compliant or low-quality vehicles.

## 8. Nanomaterials

Over the reporting period, the Joint Research Centre (JRC) continued to lay the foundations for a harmonised and evidence-based risk assessment in nanotechnology and supported the development of a definition of nanomaterials needed for regulatory clarity and labelling purposes. These initiatives originate in safety concerns related to practices in the manufacturing process, to consumer health, and the protection of the environment. In February 2011 the JRC established the first European repository of nanomaterials with a representative range of 25 different types of reference nanomaterials containing thousands of samples for each type.<sup>14</sup>

**Benefit for consumers:** the JRC activity makes it easier to detect and assess possible risks for consumers from the use of nanomaterials.

## 9. Chemicals

Certain RAPEX notifications relating to products identified by Member States as dangerous have revealed possible chemical risks, which so far were not regulated at the EU level. These cases have been discussed in various networks with experts and, where appropriate, a REACH restriction dossier has been introduced by a Member State. The restriction of the use of lead in jewellery is a recent example of such activities.<sup>15</sup>

From a broader perspective, the JRC develops new approaches in testing the risks of chemicals to consumers<sup>16</sup> with a strong focus on the development and harmonisation of integrated testing strategies which utilise a growing number of complementary scientific disciplines (e.g. computational chemistry, in-vitro toxicology, biophysical modelling, metabonomics<sup>17</sup>, and systems biology) to provide more quantitative and robust tools for risk assessment. This includes endocrine disrupting substances, for which there is public concern over their ability to cause permanent dysfunctions in the early stages of human development, and indoor air quality, looking at exposure to emissions from consumer products and building materials which could have a negative impact on health ranging from headaches to mucous irritation, respiratory diseases and asthma.

**Benefit for consumers:** consumers are better protected against the risks from the presence of dangerous chemical substances in the products they buy.

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<sup>13</sup> See new texts at [http://ec.europa.eu/enterprise/sectors/automotive/documents/proposals/index\\_en.htm#h2-2](http://ec.europa.eu/enterprise/sectors/automotive/documents/proposals/index_en.htm#h2-2).

<sup>14</sup> [http://ec.europa.eu/dgs/jrc/downloads/jrc\\_20110214\\_newsrelease\\_nanorepository\\_en.pdf](http://ec.europa.eu/dgs/jrc/downloads/jrc_20110214_newsrelease_nanorepository_en.pdf).

<sup>15</sup> <http://echa.europa.eu/documents/10162/aae1d985-ae57-44f9-8556-c952a6e6d09b>.

<sup>16</sup> <http://ecvam.jrc.it/>.

<sup>17</sup> The study of metabolic responses to drugs, environmental changes and diseases.

## 10. Cosmetics and medical devices

In relation to cosmetics, the Commission, in co-operation with the national competent authorities, the poison centres and the cosmetics industry, developed a new web based application for cosmetic products (Cosmetic Products Notification Portal –CPNP) which was launched on 11 January 2012, as required by Regulation (EC) N° 1223/2009.<sup>18</sup> This application will be a one stop shop for the cosmetic industry to submit information about the products placed on the EU market. The information submitted will be made available to poison centres and national authorities.

**Benefit for consumers:** poison centres can react quickly to help consumers in case of poisoning.

Based on a Commission proposal, the Council adopted in September 2011 a directive on tooth whitening products.<sup>19</sup> In the light of the scientific data available, this directive introduces new and clear rules on the use of these products in the European Union.

**Benefit for consumers:** consumers are better protected against the risks from use of tooth whitening substances.

The Commission has during the reporting period also analysed the situation in relation to the upcoming full implementation of the marketing ban for cosmetics tested on animals in 2013 and reported to the European Parliament and the Council. This is an issue that is close to the heart of many consumers.

In relation to medical devices, work has been going on for the revision of the medical device legislation. With the revision the Commission aims at strengthening the legal framework for medical devices. A more robust legal framework will benefit patients and consumers. The revision also envisages access of the public to information on medical devices on the market and will thus lead to more transparency for consumers.

**Benefit for consumers:** consumers are better protected against the risks from use of medical devices.

## 11. Pharmaceuticals

New rules on pharmacovigilance<sup>20</sup> were adopted in December 2010<sup>21</sup> and will be applicable from July 2012 to provide significant benefits for patients. Among the pillars underpinning the new legislation are rules to strengthen transparency, communication and patient involvement as well as to harmonise decisions. Also spontaneous reporting of adverse medicinal product reaction by patients is now built into the new system.

The new legislation on falsified medicines<sup>22</sup> adopted in June 2011 introduces strict and effective measures for patient safety, being a major step forward in fighting falsified medicines that are increasingly found in Europe. The Directive provides for strengthened controls of all key players in the supply chain. The Commission has been starting work on the implementing measures.

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<sup>18</sup> [http://ec.europa.eu/consumers/sectors/cosmetics/files/pdf/cpnp\\_user\\_manual\\_en.pdf](http://ec.europa.eu/consumers/sectors/cosmetics/files/pdf/cpnp_user_manual_en.pdf).

<sup>19</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:283:0036:0038:EN:PDF>.

<sup>20</sup> Pharmacovigilance (abbreviated PhV) is the pharmacological science relating to the detection, assessment, understanding and prevention of adverse effects, particularly long term and short term side effects of medicines.

<sup>21</sup> *Directive 2010/84/EU* and *Regulation (EU) No 1235/2010* of 15 December 2010 on pharmacovigilance of medicinal products for human use.

<sup>22</sup> The European Parliament and Council *Directive 2011/62/EU* on falsified medicines of 8 June 2011.



Amongst the most prominent are: the delegated act on the 'safety features' which paves the way towards a European safety feature to identify and thus authenticate medicines and the implementing act to define the criteria to assess a third country Good Manufacturing Practices system on active substances. The Directive makes the EU regulatory system fit for the future and contributes to protecting patients from the risks of fake medicines. The application of the new rules depends on the topic, it ranges between 18 months and 4-5 years. The European Commission will now start working on the detailed rules to make sure these new measures are properly implemented.

**Benefit for consumers and patients:** the new rules empower patients to play an active role in patient safety.

The Commission adopted in October 2011 revised proposals<sup>23</sup> on information to patients on prescription-only medicines. The new texts take into account the resolutions of the European Parliament adopted in November 2010. The Commission's aim is to create a legal framework which clearly sets the conditions whereby industry may provide information to the public and fulfil its role as provider of objective and reliable information on medicinal products. In this context, competent authorities should generally act as a filter between the marketing authorisation holder and the patient. Moreover, in these revised proposals, the Commission has addressed certain issues related to *pharmacovigilance* in order to further strengthen the pharmacovigilance system in the European Union.

In December 2011, the Commission announced the split of the revised proposals in two parts relating to *information to patients* and *pharmacovigilance* respectively, in order to facilitate the ordinary legislative procedure.

**Benefit for consumers and patients:** the proposals should ensure that patients have access to reliable information.

## 12. Noise pollution

Noise pollution poses a health risk to consumers. According to a report, prepared with the support of the JRC<sup>24</sup> and released in March 2011 by the World Health Organisation (WHO), environmental noise leads to a disease burden that is second in magnitude only to that from air pollution, among environmental factors in Europe. The JRC contributed to this report and provided a methodology for strategic noise mapping in Europe which will significantly improve the comparability of citizen's exposure to excessive noise levels and contribute to a forthcoming amendment to EU legislation on noise.

**Benefit for consumers:** the initiative will make it possible to better protect the European citizens from noise pollution.

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<sup>23</sup> COM(2011) 633 final, amended proposal for a Directive amending Directive 2001/83/EC, as regards information to the general public on medicinal products subject to medical prescription and as regards pharmacovigilance; COM(2011) 632 final, amended proposal for a Regulation amending Regulation (EC) No 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription and as regards pharmacovigilance;

[http://ec.europa.eu/health/human-use/information-to-patient/legislative-developments\\_en.htm](http://ec.europa.eu/health/human-use/information-to-patient/legislative-developments_en.htm).

<sup>24</sup> [http://ihcp.jrc.ec.europa.eu/our\\_activities/health-env/env\\_noise/who-and-jrc-announce-new-evidence-of-health-effects-of-noise](http://ihcp.jrc.ec.europa.eu/our_activities/health-env/env_noise/who-and-jrc-announce-new-evidence-of-health-effects-of-noise).

## 13. Indoor Air Quality

The total calculated burden of disease attributable to poor Indoor Air Quality (IAQ) in the EU-26 has been estimated at 2 million years of healthy life (DALYs) lost annually. This equals about 3 % of the total burden of disease in the EU.

An indoor air quality expert group has been established in the framework of the EU Environment and Health Strategy<sup>25</sup> to provide a forum for the exchange of best practices and information related to IAQ issues and to provide input to the Commission on programmes and policies on improving IAQ.

It promotes synergy with other policy areas such as environment, energy, enterprise and research. During 2011 it reviewed work carried out by the JRC on: (a) health-based evaluation of indoor products emissions in the EU on the basis of the LCI (Lowest Concentration of Interest) concept; and (b) indoor air monitoring in the EU.

Reports were published in 2011 which arise from actions funded under the EU health programme, including on 'Promoting actions for healthy indoor air' (an Indoor Air Quality Impact Assessment).<sup>26</sup>

**Benefit for consumers:** these activities should lead to an improvement of the quality of indoor air and more healthy respiratory conditions for consumers.

## C. Information, education & capacity building

Faced with the increased complexity of markets and the developments in the digital world, consumers need to have access to the right information and the right tools to properly understand it. Information should be transparent and accurate, and intermediaries to whom consumers increasingly turn, should be reliable and really unbiased. Providing tomorrow's consumers with basic consumer education is also a prerequisite for improving consumer knowledge in the longer-term and enabling them to better understand information about the goods they purchase, their contractual rights and the means at their disposal to enforce these rights. Strong and competent consumer organisations are important. The Commission supports them by funding their capacity building.

### 1. Consumer Empowerment Index (CEI)

According to a Eurobarometer survey published in April 2011<sup>27</sup> on the occasion of the European Consumer Summit, less than 50% of EU consumers surveyed felt confident, knowledgeable and protected in terms of their consumer rights. Detriment reported by consumers is estimated at around 0.4% of EU GDP with more than one fifth of EU consumers reporting a problem in the previous 12 months. Significant numbers of consumers have problems making everyday calculations, understanding key information, recognising illegal sales practices or knowing their rights. A majority of respondents did not know their right to return a faulty product, or to have it repaired or replaced.

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<sup>25</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0338:FIN:EN:PDF>.

<sup>26</sup> [http://ec.europa.eu/health/healthy\\_environments/events/ev\\_20110614\\_en.htm](http://ec.europa.eu/health/healthy_environments/events/ev_20110614_en.htm).

<sup>27</sup> [http://ec.europa.eu/consumers/consumer\\_empowerment/docs/report\\_eurobarometer\\_342\\_en.pdf](http://ec.europa.eu/consumers/consumer_empowerment/docs/report_eurobarometer_342_en.pdf).

Based on the results of the Eurobarometer survey, the Commission's Joint Research Centre (JRC) developed in 2011<sup>28</sup> a new composite indicator, to measure consumer empowerment: the Consumer Empowerment Index (CEI). The Index describes perceptions and behaviours of more than 56.000 consumers of 29 European countries along three main dimensions: *Consumer skills*, *Awareness of legislation on consumer rights* and *Consumer engagement*. The CEI also characterises some crucial socio-economic determinants of empowerment such as living conditions, internet use, education or the language used.

**Benefit for consumers:** the index is expected to help policy makers focus on areas where consumers face the most challenges.

## 2. Consumer information and education

### a) Food Information Regulation

The new European rules on food labelling were adopted in September 2011<sup>29</sup> and will enter into force in December 2014<sup>30</sup>. The legislation lays down general principles on food labelling. It provides new rules on legibility of information and strengthens the rules intended to prevent misleading practices. Some of the additional information requirements concern substances causing allergies or intolerances. There are also new requirements to provide information on the nutrient content of foods. New rules on labelling meat will enable the consumer to know the origin of fresh meat derived from pigs, sheep, goats and poultry. Engineered nanomaterials will also need to be indicated in the list of ingredients.

**Benefit for consumers:** the new rules should help consumers make better choices that correspond closer to their needs.

### b) Meat products

In December 2010 the Commission adopted a Communication<sup>31</sup> on the future necessity and use of mechanically separated meat (MSM) in the EU including the information policy towards consumers. The report clarifies the Commission's position on the obligation to label the use of any MSM and the need ensure that consumers are informed about the use of MSM in general. In order to ensure uniform application of the EU law and fair competition on the EU market the Commission's services will develop a guidance document to help Member States to better identify products that need to be considered as MSM or, if appropriate from a legal point of view, propose legislative amendments.

**Benefit for consumers:** consumers will be able to identify more easily products containing MSM.

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<sup>28</sup> [http://ec.europa.eu/consumers/consumer\\_empowerment/docs/JRC\\_report\\_consumer\\_empowerment\\_en.pdf](http://ec.europa.eu/consumers/consumer_empowerment/docs/JRC_report_consumer_empowerment_en.pdf).

<sup>29</sup> Regulation (EU) Nr. 1169/2011, OJ L 304, 22.11.2011, p. 18.

<sup>30</sup> With the exception of the new mandatory nutrition labelling requirement which will be effective from December 2016. There are also a few additional transitional provisions in Article 54.

<sup>31</sup> [http://ec.europa.eu/dgs/health\\_consumer/docs/msm\\_report\\_20101202\\_en.pdf](http://ec.europa.eu/dgs/health_consumer/docs/msm_report_20101202_en.pdf).

### ***c) Fish and aquaculture products***

In July 2010 the Commission adopted a proposal<sup>32</sup> for the reform of the Common fisheries policy that goes further than the current legislation in terms of information to consumers on fish and aquaculture products:

- It extends the obligation to label the commercial name, production method and provenance to all products whatever their presentation (canned and processed products were not included so far) and also proposes to include date of catch, mention of fresh or defrosted for non processed products;
- It supports provision of more understandable and precise information on the provenance of the products. Until now this information has been limited to very large areas (FAO zone number or e.g. North East Atlantic). The reform proposal offers the opportunity to label smaller and better known areas such as for example: North Sea, English Channel and Bay of Biscay;
- It lays down provisions to frame additional voluntary information by way of developing EU minimum criteria.

**Benefit for consumers:** the proposal will make it easier for consumers to choose among the various fish and aquaculture products on the basis of their preferences.

### ***d) Food quality***

Product quality is firstly about meeting consumer expectations. In the area of food and drink there exist three Community registers of quality denominations, namely for "protected denominations of origin" – PDOs -, "protected geographical indications" – PGIs -, and "traditional specialties guaranteed" - TSGs. The list of products covered by this policy contains inter alia meat and meat products, cheeses, other products of animal origin, fruit and vegetables, fish, beers, beverages, bread, pasta and even essential oils and flowers.

The Quality Package adopted in December 2010 by the European Commission<sup>33</sup> has a double objective: to guarantee higher quality to consumers and fair prices for farmers. This Quality Package sets up for the first time a comprehensive policy on certification schemes, value-adding terms for agricultural product qualities, and product standards. Until now these have been spread among numerous pieces of legislation. With this Package, the Commission covers all facets of quality, from compliance with minimum standards to highly specific products.

**Benefit for consumers:** consumers will have access to higher quality food products and will be able to choose more easily the ones that correspond to their preferences.

### ***e) Information on and promotion of agricultural products***

Since January 2011, the Commission publishes a monthly note comparing recent price developments for agricultural commodity and food products in the EU<sup>34</sup>. This initiative contributes to a better transparency in the food supply chain.

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<sup>32</sup> <http://ec.europa.eu/fisheries/reform/>.

<sup>33</sup> [http://ec.europa.eu/agriculture/quality/policy/quality-package-2010/index\\_en.htm](http://ec.europa.eu/agriculture/quality/policy/quality-package-2010/index_en.htm).

<sup>34</sup> [http://ec.europa.eu/agriculture/analysis/markets/foodprices/index\\_en.htm](http://ec.europa.eu/agriculture/analysis/markets/foodprices/index_en.htm)

Under Regulation n° 3/2008<sup>35</sup> the EU provides financial support for campaigns to promote farm products and inform consumers about how they were produced. EU assistance is normally given to professional producer organisations through a co-financing of programmes which could reach 50%. The EU budget is around €50 million annually.

Promotional campaigns highlight the quality, the nutritional value and the safety of EU farm products and food based on these products. They also draw attention to other intrinsic features and advantages of EU products, such as specific production methods, labelling, animal welfare and respect for the environment. The campaigns can run inside the EU, or beyond its borders. Over the last 10 years around two thirds of the budget co-financed internal market campaigns.<sup>36</sup>

During the reference period two specific initiatives were launched:

- Ad-hoc campaign for programmes for fresh fruit and vegetables after the epidemic caused by the bacteria *Escherichia coli*;
- Green paper on promotion measures and information provision for agricultural products issued in July 2011.<sup>37</sup>

**Benefit for consumers:** consumers receive better quality and more timely information and alerts on food products.

#### ***f) Information on animal feed***

New feed marketing rules have entered into force in September 2010<sup>38</sup>. They increase transparency (e.g. the EU catalogue of feed materials), help the consumer make informed choices through better labelling rules that go beyond the mere label to cover any means of information, and counter misleading advertisement through explicit principles for claims on feed.

**Benefit for consumers:** the rules are important not only for the 5 million livestock farmers in the EU but also for the roughly 60 million European households that have pets and buy regularly pet food.

#### ***g) Impact of food on health and wellbeing***

During the reporting period several research projects focused on understanding consumer behaviour and preferences as well as on the impact of food on health and well-being. Some of these projects targeted vulnerable consumer groups like children and adolescents:

- Project **Eatwell**<sup>39</sup> (running till September 2012) aims at improving policy interventions that will encourage healthy eating across Europe;
- Project **Toybox**<sup>40</sup> (running till August 2013) seeks to influence obesity related behaviour in 4-6 year old;

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<sup>35</sup> OJ L 3, 5.1.2008, p. 1.

<sup>36</sup> See Report on the application of Council Regulation (EC) No 3/2008 on information provision and promotion measures for agricultural products on the internal market and in third countries, COM(2010) 692 final, 25.11.2010.

<sup>37</sup> [http://ec.europa.eu/agriculture/promotion/policy/green-paper/index\\_en.htm](http://ec.europa.eu/agriculture/promotion/policy/green-paper/index_en.htm).

<sup>38</sup> EC Regulation n° 767/2009 on the placing on the market and use of feed, OJ L 229/1, 1.09.2009.

<sup>39</sup> <http://www.eatwellproject.eu/en/>.

- Project **Maitre**<sup>41</sup> (launched in September 2011) aims at promoting knowledge on food research in Europe and advancing the dialogue between the scientific world and society at large.

### ***h) Information to consumers on their rights***

The Commission carried out a consumer rights awareness raising campaign in Bulgaria in 2010 working closely with national stakeholders. A similar campaign was developed for Romania in 2011.

**Benefit for consumers:** these are targeted campaigns using efficient media channels to deliver key messages to consumers to raise consumers' awareness about their rights, and thus empower consumers in Bulgaria and Romania.

### ***i) Tobacco***

29% of Europeans smoke, and smoking continues to be the largest single cause of preventable death and disease in the EU. 31% of smokers have tried to give up smoking within the last 12 months. The Commission launched in June 2011 the EU-wide campaign<sup>42</sup> "Ex-smokers are unstoppable" (2011-13) that focuses on encouraging Europeans to stop smoking.

**Benefit for consumers:** the new campaign shifts the focus from the dangers of smoking to the positive benefits of quitting, highlighting the inspirational achievements of ex-smokers and offering practical tips on quitting.

### ***j) Europa Diary, Dolceta, European Masters Programmes***

The Europa Diary 2010/2011 and 2011/2012 editions were delivered to schools, and as usual made available to students at the start of the school year. Maintenance and some dissemination actions were undertaken for the Dolceta.eu website. A new section on financial literacy was launched, and a new section on food issues is under development. A project setting up three European Masters programmes in Consumer Policy was completed in 2011 with the expiry of the 3 year funding cycle. All three actions, including the TRACE programme for capacity building, were evaluated in 2011. As a consequence, the first steps were taken to set out a new interactive and targeted approach to consumer education, building on best practices exchange with MS, and bringing the actions in line with new media technologies.

**Benefit for consumers:** consumer education is one of the key elements for consumer empowerment. Empowered consumers can best reap the benefits of the internal market. Consumer issues should be encouraged to appear more prominently in education curricula with the support of the new platform.

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<sup>40</sup> <http://www.iaso.org/policy/euprojects/toyboxproject/>

<sup>41</sup> <http://maitreproject.eu/>

<sup>42</sup> <http://www.exsmokers.eu/>



### **3. Capacity building**

During the reporting period the Commission worked closely with consumer organisations, that play a key role in raising consumers' awareness, and sought to raise their profile and strengthen their capacity, via the TRACE (Training for Consumer Empowerment<sup>43</sup>) programme of capacity building of staff working in consumer organisations. In 2011, Commission' services initiated a project/study called "Analysis of the Consumer Movement in Central, Eastern and South Eastern Europe (CESEE)". The purpose is to develop and propose options for actions, both at national and at EU level, to strengthen the consumer movement in the 6 CESEE countries Slovakia, Slovenia, Estonia, Latvia, Cyprus and Malta. The results of the project should be taken into consideration when developing options for strengthening the consumer movement for all CESEE countries. This project builds on the 'Report of the ECCG on monitoring indicators of the consumer movement'<sup>44</sup>.

**Benefit for consumers:** these initiatives support a strong and competent representation of consumer interests at national and EU level.

## **D. Rights and redress**

Empowered consumers have to be able to rely on strong rights and the legislation has to be adapted to new market conditions and to the developments in the digital world. Consumer rights have also to be properly integrated into sectoral policies. Financial services, energy, transport and food are among the most relevant given their impact on consumers' budgets today.

### **1. Consumer rights**

#### **a) Cross-border healthcare**

In April 2011 the new Directive<sup>45</sup> on the application of patients' rights in cross-border healthcare entered into force. The directive applies to individual patients who decide to seek healthcare in a Member State other than the Member State of affiliation. Member States must ensure that the healthcare providers on their territory apply the same scale of fees for healthcare for patients from other Member States, as for domestic patients in a comparable medical situation. The Member State of affiliation must ensure that costs incurred by an insured person who receives cross-border healthcare are reimbursed, if the healthcare in question is among the benefits to which the insured person is entitled in the Member State of affiliation. The rules will also make it easier for national health authorities to work closer together and exchange information on quality and safety standards of healthcare.

**Benefit for consumers and patients:** the new rules clarify patients' rights to access safe and good quality treatment across EU borders, and be reimbursed for it. Patients travelling to another EU country for medical care will enjoy equal treatment with the citizens of the country in which they are treated. The rules will also help patients who need specialised treatment, for example those who are seeking diagnosis or treatment for a rare disease.

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<sup>43</sup> <http://www.trace-beuc.org>

<sup>44</sup> [http://ec.europa.eu/consumers/empowerment/docs/eccg\\_report\\_indicators\\_012011\\_en](http://ec.europa.eu/consumers/empowerment/docs/eccg_report_indicators_012011_en).

<sup>45</sup> Dir. 2011/24/EU, OJ L 88/45, 4.4.2011.

## **b) Consumer Rights Directive**

One major piece of consumer legislation has been adopted in 2011, the Consumer Rights Directive<sup>46</sup> (CRD). Member States have to transpose it into national law by December 2013. The provisions of the directive will apply to contracts concluded after 13 June 2014 and will replace the current Doorstep Selling<sup>47</sup> and Distance Sales Directives<sup>48</sup>.

In contrast to the current Directives, which only impose a minimum level of harmonisation of consumer protection rules, the areas covered by the CRD provide for a convergent level of consumer protection across the 27 Member States, with some limited exceptions.

**Benefit for consumers:** the new rules ban certain practices, such as "pre-ticked" boxes for additional options or "cost traps" of internet vendors which trick consumers into paying for services which appear to be free. The new Directive extends the withdrawal right for consumers in distance and off-premises contracts to 14 days. The right of withdrawal for off-premises contracts also covers visits by traders which were solicited by the consumer. The right of withdrawal is extended to online auctions (e.g. eBay auctions). Consumers will have a right to withdraw from digital content such as music or video downloads, but only up until the moment the actual downloading process begins.

The directive introduces new harmonised rules on delivery of goods and the passing of risk. It also bans surcharges higher than the trader's actual costs for the use of certain payment means (e.g. credit cards) and charges for telephone hotlines higher than the standard telephone rate for the contact with the trader in relation to the contract. In general, consumers will not have to pay charges or other costs if they were not properly informed thereof before the placing of the order.

Finally, the CRD contains a minimum list of information requirements to be respected by the trader when a contract for the sale of goods or the provision of services is concluded on business premises. This area has so far not been covered by EU legislation.

## **c) Unfair Commercial Practices**

Directive 2005/29/EC on Unfair Commercial Practices<sup>49</sup> lays down harmonized rules for the fight against unfair commercial practices and contributes to a high level of consumer protection.

In July 2011, the Commission launched an on-line legal database<sup>50</sup> (the Unfair Commercial Practices Directive Database or "UCPD Database") in order to promote a common understanding and a convergence of practices when implementing and applying the Directive.

**Benefit for consumers:** the new database allows the public to access in a user-friendly manner the laws and jurisprudence of the Member States related to the Directive, as well as other useful material such as relevant academic work.

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<sup>46</sup> Dir. 2011/83/EU, OJ L 304, 22.11.2011, p. 64; [http://ec.europa.eu/justice/consumer-marketing/rights-contracts/directive/index\\_en.htm](http://ec.europa.eu/justice/consumer-marketing/rights-contracts/directive/index_en.htm).

<sup>47</sup> OJ L 372, 31.12.1985, p. 31.

<sup>48</sup> OJ L 144, 4.6.1997, p. 19.

<sup>49</sup> OJ L 149 of 11.06.2005, p 22.

<sup>50</sup> <https://webgate.ec.europa.eu/ucp/>.



#### **d) Common European Sales Law**

The Commission proposal for a Regulation on a Common European Sales Law<sup>51</sup> aims at offering parties to a cross-border consumer contract the possibility of choosing one self-standing, uniform set of contract law rules which would be applicable throughout the Union, without the need for adaptations to the consumer protection requirements of every Member State. The proposal covers the sale of traditional goods and of digital content products, as well as related service contracts such as repair and maintenance.

The level of protection offered is at least the same or higher than that found in the existing body of European law, including the Consumer Rights Directive, and is comparable to or higher than that found in most Member States.

**Benefit for consumers:** the results of the impact assessment show that consumers would benefit from purchasing under this instrument. Being able to trade across the EU using the same set of rules would encourage more cross-border trade and competition in the internal market and thus consumers would benefit from a wider product choice at lower prices. It would also ensure consumer confidence in their rights whilst affording them a high level of mandatory protection. For example, when a product is faulty the consumers would be able to choose between repair or replacement, price reduction, withholding performance, termination of the contract and damages. Where a consumer terminates a contract, he would not be required as a general rule to pay for the use of the goods. Furthermore, the business practice of refusal to sell to consumers from other Member States would be likely to decline to the extent it is generated by the complexity of the legal requirements of consumer protection in the Member States

#### **e) Protection of Personal Data**

In the second half of 2010 the Commission continued its review and carried out an extensive public consultation on the current legal framework for data protection, focusing *inter alia* on the 1995 Data Protection Directive<sup>52</sup>. The public consultation<sup>53</sup> confirmed that, although the core principles of the Data Protection Directive are still valid and that its technologically neutral character should be preserved, the risks to privacy and the protection of personal data associated with globalisation and new technologies are rapidly increasing, posing serious challenges to the exercise of the fundamental right to data protection and privacy.

In November 2010 the Commission published a Communication<sup>54</sup> on the future of data protection in Europe. Following further stakeholder consultations throughout 2011 on a number of key areas the Commission adopted a comprehensive legislative package to reform European data protection rules in January 2012.<sup>55</sup>

**Benefits for consumers:** the initiatives are expected to reduce the risk that personal data and of consumers are misused, hence boosting their trust and confidence in new technologies, and allowing them to reap their full benefits.

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<sup>51</sup> [http://ec.europa.eu/justice/contract/files/common\\_sales\\_law/regulation\\_sales\\_law\\_en.pdf](http://ec.europa.eu/justice/contract/files/common_sales_law/regulation_sales_law_en.pdf).

<sup>52</sup> Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

<sup>53</sup> Summary of replies to the public consultation about the future legal framework, [http://ec.europa.eu/justice/news/consulting\\_public/0003/summary\\_replies\\_en.pdf](http://ec.europa.eu/justice/news/consulting_public/0003/summary_replies_en.pdf).

<sup>54</sup> [http://ec.europa.eu/justice/news/consulting\\_public/0006/com\\_2010\\_609\\_en.pdf](http://ec.europa.eu/justice/news/consulting_public/0006/com_2010_609_en.pdf).

<sup>55</sup> [http://ec.europa.eu/justice/newsroom/data-protection/news/120125\\_en.htm](http://ec.europa.eu/justice/newsroom/data-protection/news/120125_en.htm).

## **f) Timeshare**

In 2009 the European Union updated existing legislation targeting timeshare and long term holiday products (the so called Timeshare Directive<sup>56</sup>), in order to adapt to market changes and close legal gaps, e.g. by covering new products such as holiday clubs as well as resale and exchange of timeshare rights.

Member States should have transposed this legislation into national law since February 2011. The Commission has been closely monitoring this transposition process and in March 2011 it addressed letters of formal notice to several Member States in order to speed up the process. A formal report on the overall implementation of this Directive is foreseen in 2014.

**Benefit for consumers:** the action should make it possible for consumers to profit from the new rules quicker in the whole of the EU.

## **g) Access to basic payment services**

Access to banking services is a basic requirement for consumers to benefit from goods and services that the single market has to offer as well as from opportunities to work and travel within the Union. However, certain of them, particularly exchange students or people working temporarily in another Member State, have difficulties in opening a bank account or obtaining a payment card if they are not permanent residents. Also, people who are on low or irregular incomes or those who have had financial difficulties in the past can currently be denied access to banking services in their country of residence.

The Commission reflected on measures necessary to guarantee access to basic payment services for any consumer legally resident in the Union. In July 2011 it adopted a Recommendation<sup>57</sup> aiming at ensuring access to a basic payment account at a reasonable price for those persons who do not have a bank account in the Member State in which they wish to open one, regardless of their financial situation and their Member State of residence. The Recommendation also defined the essential characteristics that basic payment accounts should include as a minimum, i.e. the means to receive, place, transfer and withdraw available funds, to the exclusion of overdraft facilities.

**Benefit for consumers:** consumers should obtain an easier access to basic banking services.

## **h) Investment services**

In October 2011, the Commission presented two legislative proposals for the review of Directive 2004/39/EC (MiFID) regulating the provision of investment services in the EU. The proposals deal with all the areas covered under the directive. Due to the importance of investor protection, especially when investment services are provided to retail clients, several parts of the proposals aim at strengthening the framework in this area. The proposals extend the scope of the directive to products and entities which are currently not covered, improve the conduct

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<sup>56</sup> Directive 2008/122/EC of 14.01.2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts, OJ L 33, 3.2.2009, p. 10.

<sup>57</sup> [http://ec.europa.eu/internal\\_market/finservices-retail/inclusion\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/inclusion_en.htm).

of business rules in the area of investment advice and other investment services (information requirements, reporting to clients, treatment of incentives received by firms), improve the framework for authorisation and organisational requirements for investment firms providing the services (responsibility of the management, fit and proper criteria, segregation of client assets, recording of clients' orders), strengthen the supervisory framework.

**Benefit for consumers:** consumers should be better protected when different investment services are provided to them.

### ***i) Mortgage credit***

In March 2011, the Commission presented a proposal for a Directive on credit agreements relating to residential property<sup>58</sup>. The aim of the Commission proposal is to create a responsible, efficient, healthy and competitive pan-European market that works to the benefit of consumers. The proposal aims to prevent the sort of irresponsible lending and borrowing practices that have fuelled the financial crisis and had a negative impact on consumers, lenders, the financial system and the economy at large. The proposal will also take the first steps towards creating a single market for mortgage credit by removing or reducing obstacles that prevent consumers, lenders and intermediaries from offering or taking out a mortgage in another Member State.

**Benefit for consumers:** the proposal introduces a higher level of protection for consumers through robust rules concerning advertising, pre-contractual information, advice, creditworthiness assessment, and early repayment. The requirement to provide personalised information to the consumer through a European Standardised Information Sheet (ESIS) will allow consumers to easily compare mortgage conditions from different providers. The proposal also aims to create a more efficient and competitive single market for mortgages by creating a level playing field for all actors involved and making cross-border activity easier.

### ***j) Bank fees***

Banking fee structures related to the holding and use of bank accounts are very often rather opaque. The transparency difficulties arise partly from the variety of terms which are applied within one country to the same fees. Consumers suffer from confusion and a lack of understanding of what they are actually paying for, are unable to compare offers from different banks and, as a result, risk ending up with services they do not need and/or paying unnecessarily high fees.

In November 2010, the Commission asked the European banking industry to identify and put in place measures to improve the access to, the understanding and the comparability of information on bank fees<sup>59</sup>. This self-regulatory initiative has failed to produce a satisfactory outcome. The Commission aims for transparent bank fees and intends to adopt a regulatory initiative for the end of 2012.<sup>60</sup>

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<sup>58</sup> [http://ec.europa.eu/internal\\_market/finservices-retail/credit/mortgage\\_en.htm#directive](http://ec.europa.eu/internal_market/finservices-retail/credit/mortgage_en.htm#directive).

<sup>59</sup> [http://ec.europa.eu/dgs/health\\_consumer/dyna/enews/enews.cfm?al\\_id=1081](http://ec.europa.eu/dgs/health_consumer/dyna/enews/enews.cfm?al_id=1081).

<sup>60</sup> Speech on January 2012 by Michel Barnier, European Commissioner for internal market and services, at the Asian Financial Forum Hong Kong, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/12/6&format=HTML&aged=0&language=EN&guiLanguage=en>.

**Benefit for consumers:** the action should make it easier for consumers to compare and shop for banking services.

### ***k) Deposit insurance and investor protection schemes***

A legislative proposal for the review of the Investor Compensation Schemes directive, published in July 2010, aims at strengthening the last resort protection offered to investors when, often because of fraudulent events, authorised investment service providers are unable to return assets to them.<sup>61</sup>

Another proposal for a directive published at the same time (July 2010) will also enhance the funding of Deposit Guarantee Schemes in Europe and improve access for consumers, through for example reduced payment periods and one-stop-shops in cross-border situations.<sup>62</sup>

**Benefits for consumers:** the improved financing of the schemes should increase safety for depositors and investors. This should strengthen consumers' confidence that they can safely deposit funds or purchase investment services all over the internal market while enjoying a harmonised level of protection.

### ***l) Air passenger rights (APR)***

Regarding air passengers rights, in 2010/2011, the Commission kept working towards an adequate and homogeneous application of the relevant rules in all the Member States in order to ensure the provision of basic rights for citizens when travelling and in cases of travel disruption. The Commission has been constantly in contact with Member States to monitor and ensure the good application of all legal developments in the field of APR, as the recent case law from the European Court of Justice (in particular with regard to rulings C-402/07 and C-432/07, *Sturgeon and Others*, and C-549/07, *Wallentin-Hermann*), which led to further clarification of the APR Regulation.

As a consequence of the volcanic ash cloud crisis of April 2010 and in order to alleviate its impact on both industry and passengers, informal interpretative guidelines<sup>63</sup> on the application of Regulation 261/2004 in the framework of the ash crisis have been agreed with all NEBs (National Enforcement Bodies). These guidelines have also proved useful during the much more limited disruptions caused by the volcanic ash in May 2011.

Two Commission texts on APR have been adopted in early 2011:

- a Communication<sup>64</sup> (ex post assessment) on Regulation 261/2004 together with a Commission Staff Working Paper<sup>65</sup> focussing on the application and enforcement of the Regulation in the Member States, notably with regard to complaint handling;
- a Report (application report) on Regulation 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (COM(2011) 166 final)<sup>66</sup>.

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<sup>61</sup> [http://ec.europa.eu/internal\\_market/securities/docs/isd/dir-97-9/proposal-modification\\_en.pdf](http://ec.europa.eu/internal_market/securities/docs/isd/dir-97-9/proposal-modification_en.pdf).

<sup>62</sup> [http://ec.europa.eu/internal\\_market/bank/docs/guarantee/20100712\\_proposal\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/guarantee/20100712_proposal_en.pdf).

<sup>63</sup> [http://ec.europa.eu/transport/passengers/air/doc/2011\\_ash-cloud-crisis-guidelines-for-interpretation.pdf](http://ec.europa.eu/transport/passengers/air/doc/2011_ash-cloud-crisis-guidelines-for-interpretation.pdf).

<sup>64</sup> COM(2011) 174 final, [http://ec.europa.eu/transport/passengers/doc/com\\_2011\\_174\\_communication\\_en.pdf](http://ec.europa.eu/transport/passengers/doc/com_2011_174_communication_en.pdf).

<sup>65</sup> [http://ec.europa.eu/transport/passengers/doc/sec\\_2011\\_428\\_staff-working-paper.pdf](http://ec.europa.eu/transport/passengers/doc/sec_2011_428_staff-working-paper.pdf).

In December 2011, the Commission launched a public consultation<sup>67</sup> regarding a possible revision of Regulation 261/2004 taking into account the results from various studies, stakeholder consultations, effects of rulings from the ECJ and other significant developments.

Furthermore, the Commission is preparing guidelines to facilitate and improve the application of Regulation 1107/2006. These guidelines will be adopted before the Paralympic Games in July 2012.

The Commission has in 2011 finalised a report on EU price transparency rules laid out in Regulation 1008/2008 on air services, Directive 2005/29/EC on Unfair commercial practices, Directive 93/13/EEC on Unfair Contract Terms and Directive 2000/31/EC on E-commerce taking into account new developments in the market since 2009. This study will serve as a basis for Commission action in this field in 2012.

In March 2011 the Commission also published an independent study on passenger protection in case of airlines' insolvencies.<sup>68</sup>

**Benefit for consumers:** the measures seek to improve the situation of consumers before and during their booking process as well as during disruptions of air transport, and also to ensure that disabled persons and persons of reduced mobility have equal opportunities to use air transport services.

### ***m) Rights of passengers using other modes of transport***

Regulation (EC) 1177/2010<sup>69</sup> on passenger rights in maritime and inland waterways transport has been adopted in November 2010 and will apply as from December 2012.

Regulation (EC) 181/2011<sup>70</sup> on passenger rights in bus and coach transport has been adopted in February 2011 and will apply as from March 2013.

In December 2011 the Commission adopted a Communication<sup>71</sup> on passenger rights in all modes of transport: aviation, rail<sup>72</sup>, boat and bus/coach. This Communication summarises the rights and principles which apply to all modes, notably also with regard to passengers with disabilities and reduced mobility. It draws on years of experience with applying the legislation (in aviation and rail) and on the interpretations of the EU Court of Justice. It aims at helping:

- carriers towards a more coherent and effective application of EU law;
- national authorities towards a harmonised enforcement of passenger protection across all modes;
- passengers towards a better understanding of what they can legitimately expect (and what they cannot) as minimum quality service when travelling.

It also identifies some areas where further convergence of current legislation can be achieved and loopholes that can be filled, to pave the way for a consistent application of the law.

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<sup>66</sup> [http://ec.europa.eu/transport/passengers/doc/com\\_2011\\_166\\_report.pdf](http://ec.europa.eu/transport/passengers/doc/com_2011_166_report.pdf).

<sup>67</sup> [http://ec.europa.eu/transport/passengers/consultations/2012-03-11-apr\\_en.htm](http://ec.europa.eu/transport/passengers/consultations/2012-03-11-apr_en.htm).

<sup>68</sup> [http://ec.europa.eu/transport/passengers/studies/doc/2011\\_03\\_passenger-rights-airline-insolvency.pdf](http://ec.europa.eu/transport/passengers/studies/doc/2011_03_passenger-rights-airline-insolvency.pdf).

<sup>69</sup> OJ L334, 17.12.2010, p. 1.

<sup>70</sup> OJ L55, 28.2.2011, p. 1–12 ,

<sup>71</sup> [http://ec.europa.eu/transport/passengers/doc/comm-2011-898-european-vision-passengers\\_en.pdf](http://ec.europa.eu/transport/passengers/doc/comm-2011-898-european-vision-passengers_en.pdf).

<sup>72</sup> Regulation 1371/2007, OJ L315, 3.12.2007, p. 14, on rail passenger rights is applicable since October 2009.

**Benefit for consumers:** passengers in all modes of transport now enjoy a basic set of passenger rights providing minimum protection for citizens when travelling. The EU rules on passenger rights facilitate mobility and social integration, notably by providing equal travel opportunities for disabled persons and persons with reduced mobility.

## 2. Redress

Consumers should be able to obtain redress quickly and at a low cost. Out-of-court redress offers advantages to both consumers and traders in terms of time, money savings and smooth proceedings to resolve disputes between them.

### ***a) Alternative Dispute Resolution (ADR) Directive – new legislative proposals in 2011***

In 2010, one in five European consumers encountered problems when buying goods and services in the single market. Unfortunately, at this stage, out-of-court dispute resolution in the EU is possible only for some business sectors or in some areas. The Commission adopted in November 2011 a package of legislative proposals to address this problem.<sup>73</sup>

The proposed Directive on Alternative Dispute Resolution<sup>74</sup> aims to ensure that ADR schemes are available across the EU to handle all disputes between consumers and traders linked to the sale of goods or the provision of services in all sectors. ADR schemes should respect certain quality principles, such as impartiality, transparency and effectiveness. The binding nature of these principles should create a level playing field. Consumers would be informed on the existence of an ADR scheme in the main commercial documents. This obligation will act as an incentive on traders to use ADR. National authorities in charge should monitor the implementation of the Directive and report to the Commission every two years on the functioning of ADR schemes.

**Benefit for consumers:** the new legislative proposal aims to ensure that all EU consumers can solve their problems without going to court, regardless of the kind of product or service that the contractual dispute is about and regardless of where they bought it in the European single market (that is, at home or abroad).

### ***b) Online Dispute Resolution (ODR) Regulation***

The proposed ODR Regulation<sup>75</sup> foresees that the Commission will establish, operate and maintain the ODR Platform, an accessible and free of charge interactive website. The Platform would provide an electronic complaint form and refer the complaint to an ADR scheme competent to deal with the cross-border online dispute. In parallel the Commission would set up a network of experts (ODR expert network) to facilitate the resolution of disputes relating to complaints submitted to the ODR Platform. Disputes referred to an ADR scheme through the ODR Platform should be dealt with in a maximum period of 30 days. Traders would be obliged to inform consumers about the existence of the ODR scheme. National competent authorities would be entrusted with monitoring the ODR system.

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<sup>73</sup> For the general framework see the Communication on ADR, COM(2011) 791/2, [http://ec.europa.eu/consumers/redress\\_cons/docs/communication\\_adr\\_en.pdf](http://ec.europa.eu/consumers/redress_cons/docs/communication_adr_en.pdf).

<sup>74</sup> [http://ec.europa.eu/consumers/redress\\_cons/docs/directive\\_adr\\_en.pdf](http://ec.europa.eu/consumers/redress_cons/docs/directive_adr_en.pdf).

<sup>75</sup> [http://ec.europa.eu/consumers/redress\\_cons/docs/odr\\_regulation\\_en.pdf](http://ec.europa.eu/consumers/redress_cons/docs/odr_regulation_en.pdf).



**Benefit for consumers:** for consumers who are shopping online from another EU country, the proposal should create an EU-wide single online platform, which would allow contractual disputes to be solved entirely online within 30 days.

## E. Enforcement

Enforcement is about giving consumers in practice the rights they have on paper. Effective enforcement of consumer rules is an essential element of consumer empowerment.

### 1. Consumer Protection Cooperation Network – Sweep on ticketing and assessment of the efficiency and effectiveness of the Network

The Consumer Protection Cooperation (CPC) Regulation<sup>76</sup> brings together the national public authorities responsible for the enforcement of the EU consumer laws to form a European network of enforcers. Since it started operating at the end of 2006, the Networked proved to be a powerful tool that provides enforcers with the means to effectively putting an end to commercial practices harming consumers in cross-border situations.

The Network further engages in concerted market monitoring and enforcement activities coordinated by the Commission.

In September 2011 the Commission presented the outcome of the 2010 sweep<sup>77</sup> exercise (an annual check of selected websites in a given sector) on ticketing for music and sporting events and coordinated a new sweep on consumer credit. The outcome of the 2010 sweep showed an increase in compliance with consumer rules from 40 % at the beginning of the exercise to 88% at the end. The preliminary findings of the 2011<sup>78</sup> sweeps revealed irregularities in up to 70% of the sites that are being followed up by national authorities.

**Benefit for consumers:** although the Network only started operating at the end of 2006, it has already brought tangible results for European consumers: in 5 years it has dealt with over 600 cross-border enforcement cases protecting consumers' collective economic interests. The sweeps contribute to make the online consumer markets safer.

### 2. ECC Centres – helping consumers in cross-border disputes

ECC-Net is an EU-wide Network that informs citizens about their rights when they are shopping across the internal EU borders. EEC-Net supports them with seeking redress with a trader in another EU Member State, Iceland and Norway, when something goes wrong.

Consumer demand for ECC's help is still relevant in 2011, ECC-Net handled more than 70.000 contacts (71,000 in 2010) with consumers who turned to them for advice and help. More than half of these contacts represent complaints that are situations where consumers had a problem with a trader in another country (42.099 complaints against 28.108 requests for information). Internet purchases continue to be the main source of consumer's cross-border complaints with 56.6% in 2011 of all complaints. As regards the sectors concerned, transport is the number one problem sector for consumers, representing 32% of all complaints. In 41% of all complaints the

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<sup>76</sup> OJ L 364, 27.10.2004.

<sup>77</sup> IP/2011/1094 dated 29.09.2011.

<sup>78</sup> [http://ec.europa.eu/consumers/enforcement/sweeps\\_en.htm](http://ec.europa.eu/consumers/enforcement/sweeps_en.htm)

ECC-Net was able to secure an amicable settlement while in 45% of all cases there was a failure to reach an agreement mostly due to the traders' "refusal to compromise" (75.5% of cases not settled at this stage).

**Benefit for consumers:** ECCs offer consumers an easily accessible contact point where they can get advice and assistance when they face a problem with a cross-border purchase.

### 3. Injunctions Directive

In 2009 the European Union updated existing legislation on injunctions for the protection of consumers' interests<sup>79</sup> in order to extend its scope of application to more consumers' interests. In 2011 it initiated a transposition check, addressing so far 5 letters of formal notice to Member States. A formal report on the overall application of this Directive is foreseen in 2012.

**Benefit for consumers:** these injunction<sup>80</sup> powers will provide consumer protection authorities with an additional tool in their fight against rogue traders, especially where existing criminal sanctions might be unwieldy or difficult to enforce.

## F. Consumer interests in other policy areas

### 1. Consumer Market Monitoring

#### *a) Consumer Scoreboards*

The Commission has significantly developed its monitoring of the single market in order to identify markets failing consumers. The October 2010 Consumer Markets Scoreboard<sup>81</sup> identified potential malfunctioning among 50 of the most important consumer markets. Compared to goods markets, services markets, especially financial services, real estate services, energy and telecommunications, appear to perform less well for consumers in terms of lack of transparency, lack of consumer trust in businesses, problems and complaints, and overall dissatisfaction. Switching remained a significant problem in energy and certain financial services. With a few exceptions (second hand cars, clothing and footwear, and meat) goods markets on the whole appear to be considerably better functioning.

The October 2011 Consumer Markets Scoreboard<sup>82</sup> largely confirmed this overall picture. For the first time, the level of competition perceived by consumers was also measured.

The March 2011 Consumer Conditions Scoreboard<sup>83</sup> monitored two different dimensions of the Single Market performance for consumers: integration of the retail single market and consumer conditions in the Member States. It showed that while e-commerce continues to grow, barriers to cross-border e-commerce need to be further tackled. For example, many consumers are still not confident in shopping cross-border online. Those who have tried cross-border e-commerce

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<sup>79</sup> Directive 2009/22/EC on injunctions for the protection of consumers' interests, OJ L 110, 1.5.2009, p.30.

<sup>80</sup> An injunction is an order issued by a court that forces the defendant - a person or corporation - to do something or stop doing something, depending on what the plaintiff is requesting.

<sup>81</sup> [http://ec.europa.eu/consumers/strategy/docs/4th\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/4th_edition_scoreboard_en.pdf).

<sup>82</sup> [http://ec.europa.eu/consumers/strategy/docs/6th\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/6th_edition_scoreboard_en.pdf).

<sup>83</sup> [http://ec.europa.eu/consumers/strategy/docs/5th\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/5th_edition_scoreboard_en.pdf).



reported significantly higher confidence levels than those who had never tried it. The Scoreboard also monitored national consumer policies, revealing a wide divergence across the EU in terms of trust in institutions and the quality of enforcement, as perceived by businesses and consumers.

**Benefit for consumers:** this initiative seeks to survey consumers' perceptions of and confidence in given markets in order to target policy measures to the sectors that pose the most problems for consumers.

### ***b) Market Studies***

One of the principal outcomes of the Consumer Markets Scoreboard at EU level is the identification of markets for in-depth studies. In-depth market studies aim at better understanding why certain markets malfunction for consumers and at formulating policy recommendations. The market studies collect new evidence through price collection, mystery shopping, surveying, and consultation with stakeholders. Two market studies were completed during the period, on the retail electricity market and on electronic commerce, and further studies have been launched or are ongoing on electrical and electronic goods, internet service provision, meat and consumer credit.

The market study on electricity, published in November 2010<sup>84</sup>, revealed major problems for electricity consumers in being able to identify the cheapest tariff, switching providers and dealing with complaints. It was estimated that on average EU consumers could save €100 euro per year if they would switch to the cheapest available tariff. A Staff Working Document endorsed by the Energy Council proposed a series of actions to facilitate consumer choice and empower EU consumers on the energy market, including easier price comparison, more effective complaint handling and better bills.

The study on e-commerce, finalised in December 2011 showed that consumers can benefit considerably from shopping online, especially across borders. It estimated that if e-commerce were to grow to 15% of the total retail sector and Single Market barriers were eliminated, total consumer welfare gains would reach around €204 billion, an amount equivalent with 1.7% of EU GDP. This is four times higher compared to a situation where, with a similar share of internet retailing, the fragmented national consumer markets of the 27 Member States would continue to exist. Two-thirds of consumer welfare gains are due to increased online choice, which is considerably larger across borders. The study sets out the need for action in relation to easier redress, enhanced enforcement, better information on online transactions, improved transparency of offers for consumers. Concrete actions to address these issues are included in the Commission's e-commerce Communication.

### ***c) Behavioural studies***

The Commission has deepened its understanding of consumer behaviour and behavioural testing during this period.

The survey on consumer empowerment<sup>85</sup> (see below) confirmed the problems consumers have in recognising key information and performing calculations.

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<sup>84</sup> [http://ec.europa.eu/consumers/consumer\\_research/market\\_studies/docs/retail\\_electricity\\_full\\_study\\_en.pdf/](http://ec.europa.eu/consumers/consumer_research/market_studies/docs/retail_electricity_full_study_en.pdf/)

<sup>85</sup> [http://ec.europa.eu/consumers/consumer\\_empowerment/index\\_en.htm](http://ec.europa.eu/consumers/consumer_empowerment/index_en.htm).

A first pilot study was published in November 2010<sup>86</sup> using behavioural science techniques to understand consumer decision-making in the area of retail investment products. Using randomised controlled trials, the study demonstrated not only the significant problems ordinary consumers have in making optimal investment decisions but also that simplification and standardisation of key investment parameters is likely to significantly improve decision-making, whereas education seems likely to be less effective. The findings will be used to revise the PRIPS (Packaged Retail Investment Products) legislation.

Further behavioural studies will allow testing policy options in various areas of interest to consumers, through the use of a new framework contract operational since end 2011, whose implementation will be supported by the JRC.

## 2. Digital Services

Too many barriers are still blocking consumers from enjoying a free flow of online services and entertainment across national borders. The Commission initiated research into consumer problems with digital services in 2010. The results published in June 2011 show that more than half (54%) of consumers had a problem with at least one of the eight popular digital services<sup>87</sup> in the study<sup>88</sup>.

Under the Single Market Act and the Digital Agenda, the Communication on eCommerce adopted in January 2012, puts forward an action plan which will facilitate cross-border access to online products and digital content, ultimately solve the problems of payment, delivery and consumer protection and information, and assist dispute resolution and the removal of illegal content, thus helping to develop an Internet that is more secure and more respectful of fundamental rights and freedoms.<sup>89</sup>

In its Green Paper on Card Internet and mobile payments adopted in January 2012 the Commission looks, inter alia, at what needs to be done to ensure that these payment services are transparent for consumers and how to improve interoperability of digital payments and how to increase the level of payment security and data protection.<sup>90</sup>

### **a) Copyright reform**

In the area of copyright, during the reference period under consideration the Commission has engaged in three initiatives that have direct relevance for consumer policy. Two initiatives – one on orphan works and another on out-of-commerce works - are concerned with facilitating the digitising of Europe's rich cultural heritage and making it broadly accessible online to European citizens and consumers. The third initiative concerns the launch of a broad-based public consultation on the opportunities and challenges for the online distribution of audiovisual content.

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<sup>86</sup> [http://ec.europa.eu/consumers/strategy/docs/final\\_report\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/final_report_en.pdf).

<sup>87</sup> emails, social networks, music, games, ringtones, positioning and navigation services, anti-virus software and e-learning

<sup>88</sup> [http://ec.europa.eu/justice/consumer-marketing/files/empirical\\_report\\_final\\_-\\_2011-06-15.pdf](http://ec.europa.eu/justice/consumer-marketing/files/empirical_report_final_-_2011-06-15.pdf)

<sup>89</sup> [http://ec.europa.eu/internal\\_market/e-commerce/communication\\_2012\\_en.htm](http://ec.europa.eu/internal_market/e-commerce/communication_2012_en.htm).

<sup>90</sup> [http://ec.europa.eu/internal\\_market/payments/cim/index\\_en.htm](http://ec.europa.eu/internal_market/payments/cim/index_en.htm).

As stated in the Commission's Communication<sup>91</sup> entitled "A Single Market for Intellectual Property Rights", facilitating the preservation and dissemination of Europe's rich cultural and intellectual heritage and encouraging the creation of European digital libraries is key to the development of the knowledge economy. Therefore, in May 2011, the Commission adopted a legislative proposal on **orphan works**<sup>92</sup> whose objective is to facilitate the creation of digital libraries and archives as well as contribute to the functioning of the Europeana portal.<sup>93</sup> The proposal makes it possible for libraries, archives, film heritage institutions and public broadcasting organisations to digitise and make orphan works available online under certain conditions. Once a work is established as an orphan work in one Member State on the basis of a diligent search, the work will be mutually recognised as an orphan work throughout the EU.

The second initiative which the Commission launched in November 2010 is a stakeholder dialogue on **out-of-commerce works**. This platform brings together authors, publishers, libraries and collecting societies in order to develop voluntary collective licensing schemes on the basis of a set of guiding principles that will enable the digitisation and online making available of books and learned journals that are still protected by copyright but are no longer commercially available.<sup>94</sup>

**Benefit for consumers:** these two initiatives are to be seen as complementary. Their successful outcome will make an important contribution to the preservation and dissemination of cultural goods and services for the ultimate benefit of European citizens, consumers, researchers and academics.

The Digital Agenda for Europe introduces several actions in the field of digital content distribution and single market. Of these initiatives a major consultation<sup>95</sup> on how to avail of the opportunities offered by the online distribution of films, video-on-demand, TV programmes and other audiovisual works in order to move towards a digital single market in Europe was launched in July 2011. The pace of change is likely to accelerate with the advent of internet-enabled TV and "cloud-based" services. The objective of the Green Paper is to assess the current state of play in the development of online audiovisual services, asking questions on what is needed to enable business and consumers to capitalise on the new opportunities offered by digital technologies.

The other major initiatives identified in the Digital Agenda mainly aiming to facilitate the access to digital content cross-border (the framework directive on collective rights management and the review of the directive on the enforcement of intellectual property rights) will be launched during the year 2012.

**Benefit for consumers:** this initiative should identify whether any regulatory changes are needed in order to help content creators, right-holders and distributors meet demand from consumers who increasingly expect to be able to watch anything, anywhere, anytime and on any device.

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<sup>91</sup> COM (2011) 287 final, 24.5.2011

<sup>92</sup> COM (2011) 289 final, 24.5.2011. Orphan works are works that are still protected by copyright but where the author cannot be identified or, even if identified, cannot be located. Therefore, libraries and archives are not in a position to ask the rightsholders for their permission to use their copyright-protected works in a digital library project.

<sup>93</sup> <http://www.europeana.eu/portal/>.

<sup>94</sup> Out-of-commerce works differ from orphan works to the extent that their authors and publishers are known but the work is not available in traditional or in new electronic channels of trade.

<sup>95</sup> "Green Paper on the online distribution of audiovisual works in the European Union: opportunities and challenges towards a digital single market, [http://ec.europa.eu/internal\\_market/consultations/2011/audiovisual\\_en.htm](http://ec.europa.eu/internal_market/consultations/2011/audiovisual_en.htm).

## **b) Levies**

Private copying levies<sup>96</sup> are currently not harmonised at EU level. Member States operate different systems with respect to, for instance, the type of equipment that is subject to a levy, the way the levy is calculated and how it is administered. This results in price differentials, which can often be substantial, for similar products across the EU. The system of collecting levies for goods that are traded across borders is also complex and uneven. This situation has obvious implications for the internal market (disparities amongst Member States' levy systems), for consumers (price differentials) and producers and importers of equipment subject to levies (paying levies in more than one country for the same item).

The proper functioning of the internal market therefore requires that action be taken in this area in order to provide consumers with a level-playing field in the EU as well as to enable the smooth cross-border trade in goods that are subject to these levies.

In order to achieve this objective, the Commission appointed in November 2011 a high level independent mediator<sup>97</sup> tasked with ironing out differences between the relevant stakeholders on the administration of private copying levies. The mediator will explore possible approaches with a view to harmonising the methodology used to impose levies, to improve the administration of levies, specifically the type of equipment subject to a levy, the setting of tariff rates, and the inter-operability of the various national systems. A concerted effort on all sides to resolve outstanding issues should lay the ground for legislative action at EU level planned for 2013.

**Benefit for consumers:** the measure should make it easier for consumers to shop for and compare products that are subject to copyright levies.

## **3. Telecommunications**

### **a) Net neutrality**

In April 2011 the Commission adopted a Communication<sup>98</sup> on "The open internet and net neutrality in Europe" indicating that BEREC, the Body of European Regulators for Electronic Communications, would assess the prevalence of practices of blocking or throttling certain types of traffic. BEREC published in December 2011<sup>99</sup> a set of Guidelines and Recommendations indicating that there had been infringements of net neutrality. On the basis of such evidence and the implementation of the telecom framework provisions, the Commission will decide, as a matter of priority, on the issue of additional guidance on net neutrality.

The Commission noted that transparency and ease of switching are key elements for consumers when choosing or changing internet service provider but they may not be adequate tools to deal with generalised restrictions of lawful services or applications. If systemic net neutrality problems persist making it difficult for consumers to access and distribute content, services and

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<sup>96</sup> Levies are payments due on recording equipment and blank recording media in some of the Member States that have introduced a statutory exception for private copying. According to Oxera (2011), around EUR 0.5 billion of private copying levies have been collected on digital devices and carriers in 2009 in the European Union.

<sup>97</sup> Mr. António Vitorino, former European Commissioner for Justice and Home Affairs.

<sup>98</sup> [http://ec.europa.eu/information\\_society/policy/ecomms/doc/library/communications\\_reports/netneutrality/comm-19042011.pdf](http://ec.europa.eu/information_society/policy/ecomms/doc/library/communications_reports/netneutrality/comm-19042011.pdf).

<sup>99</sup> Guidelines on Transparency in the scope of Net Neutrality: Best practices and recommended approaches; [http://berec.europa.eu/doc/berec/bor/bor11\\_67\\_transparencyguide.pdf](http://berec.europa.eu/doc/berec/bor/bor11_67_transparencyguide.pdf).

applications of their choice via a single internet subscription, the Commission will assess the need for more stringent measures to achieve competition and the choice consumers deserve.

**Benefit for consumers:** the measure will make it easier for consumers to compare internet providers.

### ***b) Universal service***

In November 2011, the Commission adopted a Communication<sup>100</sup> on universal service in e-communications, reporting on the outcome of the public consultation in 2010 and the third periodic review of the scope of universal service. In addition it sets out some reflections on the measures to be taken by the Member States when implementing the universal service provisions.

The Commission wants to ensure that the universal service rules play their proper part in bringing the benefits of the digital economy to people in Europe, while at the same time ensuring that they do not act as a disincentive to private investment, place a disproportionate burden on the telecommunications sector or unduly distort the market.

**Benefit for consumers:** universal service rules tackle the risk of social exclusion and designed to act as a safety net to ensure that citizens are not prevented from participating in society through a lack of affordable access to essential telecoms services.

### ***c) Roaming***

In July 2011 the Commission proposed a new Roaming Regulation with a long-term solution to the continued high cost of using mobile phones and other mobile devices whilst travelling in the EU (roaming). The directly binding Regulation proposed should introduce for the first time structural measures to boost competition by allowing customers from 1 July 2014, if they so wish, to sign up for a cheaper mobile roaming contract, separate from their contract for national mobile services, whilst using the same phone number. The proposal should also give mobile operators (including so-called virtual mobile operators, who do not have their own network) the right to use other operators' networks in other Member States at regulated wholesale prices, and so encourage more operators to compete on the roaming market.

To cover the period until structural measures become fully effective and competition drives retail prices down, the proposal would progressively lower current retail price caps on voice and texting (SMS) services and introduce a new retail price cap for mobile data services. By 1 July 2014, roaming consumers would pay no more than 24 cents per minute to make a call, a maximum 10 cents per minute to receive a call, maximum 10 cents to send a text message and maximum 50 cents per Megabyte (MB) to download data or browse the Internet whilst travelling abroad (charged per Kilobyte used).

**Benefit for consumers:** the measure will make it cheaper for consumers to use their phones not only for voice telephony but also for email, internet surfing and other data applications when they are roaming (travel outside the area of their telecom operator).

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[http://ec.europa.eu/information\\_society/policy/ecomms/doc/library/communications\\_reports/universal\\_service/com\\_m\\_us\\_en.pdf](http://ec.europa.eu/information_society/policy/ecomms/doc/library/communications_reports/universal_service/com_m_us_en.pdf).

## 4. Postal services

In the area of postal services, during the reference period the Commission undertook three sector studies: one focused on the main developments in the postal sector from 2008 to 2010<sup>101</sup>, another on identifying the methodology for determining the consumer preferences regarding postal services<sup>102</sup> and a third on cross-border parcel delivery in view of emerging e-commerce<sup>103</sup>.

According to the findings of the studies there exist several barriers and causes of price disparity between cross-border and domestic postal and parcel delivery. The main ones concern the level of information and knowledge by retailers, the level of competition in the postal markets, quality of service and product characteristics (e.g. track and trace) of postal operators, differences in VAT regimes within Europe, demographic and geographic characteristics (type of border, population density, distance, etc), interconnection agreements between operators and their operational costs.

In August 2010 the Commission established the European Regulators Group for Postal Services (ERGP) as an expert advisory platform of national regulatory authorities, which should, through cooperation and coordination, facilitate the efficient and sound application of the applicable regulatory framework. Within the first year of its work the ERGP focused on pressing regulatory issues such as end user protection and evaluation of the effects of EU postal reform.<sup>104</sup>

**Benefit for consumers:** with the objective of developing best regulatory principles, ERGP is a key element of the single postal market and a driving force in ensuring that European citizens have access to high quality, customer oriented postal services.

## 5. Sustainable consumption and resource efficiency

### a) *Resource-Efficiency Roadmap*

In September, the European Commission set out a 'roadmap'<sup>105</sup> aimed at transforming Europe's economy into a sustainable one by 2050. The Roadmap to a resource-efficient Europe outlines how we can achieve the resource efficient growth which is essential for our future wellbeing and prosperity. Measures set out aim at transforming production and consumption, with incentives for investors to promote green innovation, and a greater role for eco-design, eco-labelling, and greener spending by public bodies. Governments are invited to shift taxation away from labour and towards pollution and waste of scarce resources, and to provide fresh incentives for consumers to prefer more resource-efficient products. The roadmap also recommends adapting prices to reflect the real costs of resource use, especially on environment and health.

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<sup>101</sup> [http://ec.europa.eu/internal\\_market/post/doc/studies/2010-main-developments\\_en.pdf](http://ec.europa.eu/internal_market/post/doc/studies/2010-main-developments_en.pdf).

<sup>102</sup> [http://ec.europa.eu/internal\\_market/post/doc/studies/2011-consumer-preferences-study\\_en.pdf](http://ec.europa.eu/internal_market/post/doc/studies/2011-consumer-preferences-study_en.pdf).

<sup>103</sup> [http://ec.europa.eu/internal\\_market/post/doc/studies/2011-parcel-delivery-study\\_en.pdf](http://ec.europa.eu/internal_market/post/doc/studies/2011-parcel-delivery-study_en.pdf).

<sup>104</sup> [http://ec.europa.eu/internal\\_market/ergp/meetings/index\\_en.htm#20101201](http://ec.europa.eu/internal_market/ergp/meetings/index_en.htm#20101201).

<sup>105</sup> Available at [http://ec.europa.eu/environment/resource\\_efficiency/index\\_en.htm](http://ec.europa.eu/environment/resource_efficiency/index_en.htm).



In addition, a study has been carried out on "Policies to encourage sustainable consumption".<sup>106</sup> This study is expected to serve as a basis to develop policies aiming to favour sustainable consumption in several consumption categories.

**Benefit for consumers:** implementation of this roadmap should lead to wider consumer choice of more environmentally friendly and resource-efficient products and services. Consumers will also save costs by buying products that last longer, or that can be easily repaired or recycled. New entrepreneurial models, where products are leased rather than bought, will satisfy consumer needs with less life-cycle resource use. The roadmap will also have a broader beneficial impact on consumer health.

### ***b) Corporate social responsibility (CSR)***

The new EU CSR Strategy, adopted in October 2011<sup>107</sup> with the Social Business Initiative<sup>108</sup> (SBI) in the "Responsible companies" package, puts forward a modern understanding of the concept of corporate social responsibility and aims to maximize the positive impact of enterprises on society and promote long term consumer trust.

**Benefit for consumers:** consumer attention to CSR-related issues has grown in recent years, but significant barriers remain, such as insufficient awareness, the need sometimes to pay a price premium, and lack of easy access to the information necessary for making informed choices. Initiatives in this area are expected to ensure that consumers receive from businesses relevant, useful and credible information.

### ***c) The Retail Forum for Sustainability***

The European Retail Forum for Sustainability, a joint initiative of the European Commission and the retail sector, is a multi-stakeholder platform that was launched in 2009 with the aim of generating a better understanding of the practical measures needed to promote sustainable consumption in the retail sector. Retailers are in a good position to support sustainable consumption – they can influence their supply chain's environmental performance and stimulate changes in consumer behaviour through their day-to-day contact with consumers. By December 2011, 20 retailers and 7 retail associations have joined this voluntary initiative.

The Retail Forum is part of the Retailers' Environmental Action Programme (REAP)<sup>109</sup>, which also includes various company-specific environmental commitments. These commitments are relevant to further promote sustainable consumption, can be accessed in an online database on the Europa website and are monitored via annual monitoring reports<sup>110</sup>. The latest monitoring report describes the 390 environmental commitments made in 3 categories ("what we sell", "how we sell" and "communication") by 2010 – 100 more than in 2009<sup>111</sup>. In the summer of 2010, retailers presented also a voluntary environmental Code of conduct<sup>112</sup> for the sector in the context of REAP aiming at promoting more sustainable consumption patterns.

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<sup>106</sup> <http://sc.eu-smr.eu/>.

<sup>107</sup> [http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm).

<sup>108</sup> [http://ec.europa.eu/internal\\_market/social\\_business/docs/COM2011\\_682\\_en.pdf](http://ec.europa.eu/internal_market/social_business/docs/COM2011_682_en.pdf).

<sup>109</sup> <http://ec.europa.eu/environment/industry/retail/reap.htm>.

<sup>110</sup> <http://ec.europa.eu/environment/industry/retail/reap/>.

<sup>111</sup> IP/12/189

<sup>112</sup> [http://ec.europa.eu/environment/industry/retail/event\\_2010/code\\_conduct.htm](http://ec.europa.eu/environment/industry/retail/event_2010/code_conduct.htm).

**Benefit for consumers:** this initiative should enable consumers to benefit from a wider choice of environmentally friendly products and services in retailers' shops.

#### ***d) The European Food Sustainable Consumption and Production Round Table (EFSCP)***

The European Food Sustainable Consumption and Production (EFSCP) Round Table, launched in 2009 and co-chaired by the Commission, associates representatives of farmers, traders, food industries and other actors of the food chain. It aims to establish an agreed methodology to assess the environmental impact of food and drink products along the whole food chain, to identify the most suitable tools to provide information on such impacts to consumers and to promote a continuous environmental improvement along the food chain. In December 2011, at the Plenary Session, the EFSCP Round Table adopted a Guidance report on communicating environmental performance along the food chain<sup>113</sup> with an assessment of the major communication tools and channels to consumers as well as recommendations on how to use them.

**Benefit for consumers:** with this initiative, consumers should benefit from environmental information on food that is scientifically reliable and consistent, understandable and not misleading, in order to support informed choice.

#### ***e) Food waste***

In October 2010, the European Commission published a preparatory study on food wastage<sup>114</sup> in the European Union highlighting the causes, quantities, environmental impacts, and policy options to tackle the problem. Food waste represents an average loss of more than 500 euro per household and per year. The study will serve as a basis to develop a food waste reduction policy.

**Benefit for consumers:** the action is expected to reduce the cost of food waste for the consumer as well the negative environmental and social consequences related to it.

#### ***f) EU Ecolabel***

The European Ecolabel is a voluntary scheme to encourage businesses to market products and services that are kinder to the environment. Products and services awarded the Ecolabel carry the flower logo, allowing consumers to identify them easily. While the logo may be simple, the environmental criteria behind it are tough, and only the very best products, which are kindest to the environment, are entitled to carry the EU Ecolabel. Those criteria are agreed at European level, following wide consultation with experts, and the label itself is only awarded after verification that the product meets these high environmental and performance standards.

The new EU Ecolabel Regulation, adopted in 2010<sup>115</sup> includes various changes - such as simplification of procedures, quicker criteria development and reduction of annual fees -

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<sup>113</sup> [http://www.food-scp.eu/files/ReportEnvComm\\_8Dec2011.pdf](http://www.food-scp.eu/files/ReportEnvComm_8Dec2011.pdf).

<sup>114</sup> [http://ec.europa.eu/environment/eussd/pdf/bio\\_foodwaste\\_report.pdf](http://ec.europa.eu/environment/eussd/pdf/bio_foodwaste_report.pdf).

<sup>115</sup> Regulation (EC) No 66/2010, OJ L 27, 30.1.2010, p. 1.



aiming at more Ecolabel product groups covered and many more EU Ecolabel products on the shelves. As provided in Article 6.5 of the new Regulation and before developing EU Ecolabel criteria for food and feed products, the Commission undertook also a study exploring the feasibility of establishing reliable criteria. The results of this feasibility study were published in October 2011<sup>116</sup>. The EU Ecolabel board supported the findings of this study and put emphasis on several barriers to the extension of the EU Ecolabel to food and drinks.<sup>117</sup> Therefore, for the immediate future, the EU Ecolabel board did not support the development of EU Ecolabel criteria on food, drink and feed.

**Benefit for consumers:** the EU Ecolabel provides information to consumers by identifying services and products that are manufactured according to stricter environmental specifications and higher performance standards, agreed at EU wide level.

### ***g) Social impact labelling and certification***

Consumers are getting increasingly cautious and/or concerned about the social impact of their choices. They want to be able to identify the products and services which have the highest social impact. Labelling and certification are tools that could potentially be used to meet these challenges. This is why the Social Business Initiative launched in October 2010<sup>118</sup> proposes to identify best practices and replicable models by developing a comprehensive map of social enterprises in Europe, especially in identifying the existing labelling systems and certifications of social enterprises processes, or product and services available to consumers. It also aims at creating a public database of labels and certifications applicable to social enterprises in Europe to improve visibility and comparison for the consumer.

**Benefit for consumers:** consumers should obtain a better idea of the products and services which follow stricter social impact criteria.

## **6. Energy**

### **a) Electricity and gas markets liberalisation**

Recent legislation, commonly known as the Third Energy Package<sup>119</sup> came into force in 2010 and Member States were expected to implement its provisions in 2011. This new legislation has a clear consumer focus<sup>120 121</sup>.

In the context of the Belgian EU Presidency, the Commission published in November 2010 a Staff Working Document "An energy policy for consumers"<sup>122</sup> that identified a number of current and future issues linked to the area of the internal market for energy and consumers.

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<sup>116</sup> [http://ec.europa.eu/environment/ecolabel/about\\_ecolabel/ecolabel\\_and\\_food\\_en.htm](http://ec.europa.eu/environment/ecolabel/about_ecolabel/ecolabel_and_food_en.htm).

<sup>117</sup> In an opinion adopted on 8 March 2012;

[http://ec.europa.eu/environment/ecolabel/documents/EUEB\\_position\\_on\\_food\\_final.doc](http://ec.europa.eu/environment/ecolabel/documents/EUEB_position_on_food_final.doc).

<sup>118</sup> [http://ec.europa.eu/internal\\_market/social\\_business/index\\_en.htm](http://ec.europa.eu/internal_market/social_business/index_en.htm).

<sup>119</sup> Detailed references to adopted legislation here:

[http://ec.europa.eu/energy/gas\\_electricity/legislation/legislation\\_en.htm](http://ec.europa.eu/energy/gas_electricity/legislation/legislation_en.htm)

<sup>120</sup> Specific legislation references here: [http://ec.europa.eu/energy/gas\\_electricity/consumer/consumer\\_en.htm](http://ec.europa.eu/energy/gas_electricity/consumer/consumer_en.htm)

<sup>121</sup> More on consumer issues in energy here: [http://ec.europa.eu/consumers/citizen/my\\_rights/energy\\_en.htm](http://ec.europa.eu/consumers/citizen/my_rights/energy_en.htm)

<sup>122</sup> The document is available here:

[http://ec.europa.eu/energy/gas\\_electricity/doc/forum\\_citizen\\_energy/sec\(2010\)1407.pdf](http://ec.europa.eu/energy/gas_electricity/doc/forum_citizen_energy/sec(2010)1407.pdf)

The 2011 Spring Council undertook the political commitment to take measures to complete the internal energy market, including consumer-related issues, by 2014.

**Benefit for consumers:** the 3<sup>rd</sup> Energy Package puts forward *inter alia* important provisions for household consumers<sup>123</sup>. For example, a maximum period of three months for the treatment of a dispute for out-of-court resolution is specified; the maximum length of supplier switching is three weeks; EU Member States are asked to establish independent Alternative Dispute Resolution bodies in the area of energy and a single point of contact to provide consumers with all necessary information concerning their rights. In addition, they are asked to give additional competences to energy regulatory authorities to deal with consumer issues, and to impose electricity and gas providers' obligations in terms of transparency of the bill, contracting, and information and complaints handling in order to further protect consumers. EU Member States are also specifically asked to define 'vulnerable customers' and to ensure adequate safeguards to protect them.

## b) The Citizens' Energy Forum

In parallel to legislation, the Commission established the Citizens' Energy Forum<sup>124</sup>. This annual event is a process for the closer monitoring of the functioning of electricity and gas markets, the implementation of relevant legislation and where consumer representatives give evidence of how markets are performing for consumers. The Commission finances the participation of consumer experts through its European Consumer Consultative Group sub-group on Energy.

**Benefit for consumers:** the Citizens' Energy Forum provides a 'reality check' to assess the progress of retail energy markets deregulation and the outcomes of this process on consumers. The Forum has tasked the Commission to run ad hoc working groups with the participation of regulators, consumers, industry with focus on areas that are important for consumers such as billing, alternative dispute resolution in energy, vulnerable consumers, and transparency of prices and offers<sup>125</sup>.

## c) Smart meters and smart grids

Within the above mentioned Third Package, a target for smart meters to be rolled out covering 80% of the EU territory by 2020 following positive impact assessments at the national level exists. To better coordinate this important challenge the Commission established a Task Force for Smart Meters and Smart Grids with the participation of regulators, consumer experts and industry. The Task Force will continue in 2012 with focus on smart grids. Already a first outcome of this work has been presented in the 2011 Commission Communication "Smart Grids: from innovation to deployment"<sup>126</sup>.

**Benefit for consumers:** the Communication contains guidelines for Member States that cover *inter alia* issues very close to the interests of consumers such as meter functionalities and their

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<sup>123</sup> Specific references here: [http://ec.europa.eu/energy/gas\\_electricity/consumer/consumer\\_en.htm](http://ec.europa.eu/energy/gas_electricity/consumer/consumer_en.htm)

<sup>124</sup> Detailed information about the Forum at:

[http://ec.europa.eu/energy/gas\\_electricity/forum\\_citizen\\_energy\\_en.htm](http://ec.europa.eu/energy/gas_electricity/forum_citizen_energy_en.htm)

<sup>125</sup> More on Energy and Consumers: [http://ec.europa.eu/consumers/citizen/my\\_rights/energy\\_en.htm](http://ec.europa.eu/consumers/citizen/my_rights/energy_en.htm)

<sup>126</sup> COM (2011) 202 final, the document is available here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0202:EN:HTML:NOT>

standardisation, data protection and privacy and roles and responsibilities linked to the roll out of smart meters. The Communication also proposes to Member States a methodology for the cost benefit analysis that needs to take place prior to the decision for the roll out of the smart meters.

#### **d) Energy efficiency and energy labelling**

In March 2011 the Commission adopted a new European Energy Efficiency Plan<sup>127</sup>. The set of actions proposed aims at creating substantial benefits for consumers, businesses and public authorities: it should generate financial savings of up to €1000 per household every year. It should improve the EU's industrial competitiveness with a potential for the creation of up to 2 million jobs. In June 2011 the Commission proposed a new Energy Efficiency Directive<sup>128</sup> to step up Member States efforts to use energy more efficiently at all stages of the energy chain – from the transformation of energy and its distribution to its final consumption.

Closely linked to energy efficiency is new EU legislation<sup>129</sup> on labelling of household appliances such as refrigerators, washing machines and televisions – and especially the new obligation for this labelling to appear in the online sales channel.<sup>130</sup>

##### **Benefit for consumers:**

- *efficiency*: the new instrument should result in major energy savings for consumers: easy and free-of-charge access to data on real-time and historical energy consumption through more accurate individual metering should empower consumers to better manage their energy consumption. Billing should be based on the actual consumption well reflecting data from the metering.
- *labelling*: under the new provisions labels include additional information, beyond energy consumption, such as noise levels, water use and storage volume depending on the appliance in question.

## **7. Tourism - Virtual Tourism Observatory**

In December 2011, the Commission awarded<sup>131</sup> a feasibility study for the setting up of a Virtual Tourism Observatory (VTO). This is one of the actions foreseen in the Communication on a new political framework for Tourism in Europe.<sup>132</sup> The VTO should aims at consolidating the socio-economic knowledge base for tourism. By systematically collecting and analysing relevant data on tourism trends, providing recommendations for policy actions based on research and best practices.

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<sup>127</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0109:FIN:EN:PDF>.

<sup>128</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0370:FIN:EN:PDF>.

<sup>129</sup> Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products; available from: <http://eur-lex.europa.eu/Notice.do?checktexts=checkbox&val=517716%3Acs&pos=1&page=1&lang=en&pgs=10&nbl=1&ist=517716%3Acs%2C&hwords=&action=GO&visu=%23texte>

<sup>130</sup> General information on energy labelling here: [http://ec.europa.eu/energy/efficiency/labelling/labelling\\_en.htm](http://ec.europa.eu/energy/efficiency/labelling/labelling_en.htm)

<sup>131</sup> <http://ted.europa.eu/udl?uri=TED:NOTICE:389973-2011:TEXT:EN:HTML>.

<sup>132</sup> COM(2010)352, 30.06.2010.

**Benefit for consumers:** by making available to consumers general information on tourism, the VTO is expected to improve the offer of tourism services and products to consumers in terms of wider choices, better comparability, quality, accessibility, sustainability and prices.

## 8. Transport

In the course of 2010 and 2011 the Commission has taken steps to improve policy coordination among EU Member States in the area of transport. The Commission has notably continued its work in the framework of the Action Plan on Urban Mobility (APUM)<sup>133</sup>. For instance, in order to improve access to urban transport for persons with reduced mobility, the Commission adopted in November 2010 the new EU Disability Strategy 2010 - 2020. Accessibility is one of the 8 areas of action covered in the strategy<sup>134</sup>.

**Benefit for consumers:** the Action Plan aims at improving mobility for citizens in urban centres by focusing on better public transport and traffic management, promoting healthier lifestyles and thus making city centres more accessible for pedestrians and safer for cyclists.

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<sup>133</sup> More on this: [http://ec.europa.eu/transport/urban/urban\\_mobility/action\\_plan\\_en.htm](http://ec.europa.eu/transport/urban/urban_mobility/action_plan_en.htm)

<sup>134</sup> COM(2010)636; at [http://ec.europa.eu/news/justice/101115\\_en.htm](http://ec.europa.eu/news/justice/101115_en.htm).

## ANNEX: Market performance indicator (MPI)<sup>135</sup>

The Market Performance Indicator (MPI) is a composite index based on the results of survey questions on the four key aspects of consumer experience:

- 1) the ease of comparing goods or services,
- 2) consumers' trust in retailers/suppliers to comply with consumer protection rules,
- 3) the experience of problems and the degree to which they have led to complaints,
- 4) consumer satisfaction (the extent to which the market lives up to what consumers expect).

The four components of the index are equally weighted. The MPI ranks 51 consumer markets at EU level according to the consumers' assessments. It signals how consumers perceive market performance, without providing a full assessment of the actual functioning of markets. Overall, the MPI was better in 2011 than in 2010, with nearly all markets showing progress in absolute results (although the markets for vehicle fuels and electricity registered a decline).

### Normalised MPI EU27 level with sub-groups

		diff	2011	2010
<b>S E R V I C E S</b>	Personal Care Services	108,1	1,2	1
	Cultural & Entertainment Services	107,0	0,4	2
	Sport And Leisure Services	105,6	1,0	3
	Holiday Accommodations	104,8	0,8	4
	Cafes, Bars And Restaurants	104,3	2,0	5
	Airline Services	104,2	1,4	6
	Packaged Holidays & Tours	103,4	1,4	7
	Vehicle Rental Services	102,7	0,5	8
	Vehicle Insurances	102,7	1,1	9
	Gambling And Lottery Services	102,4	0,8	10
	Postal Services	102,2	-0,2	11
	Home Insurances	101,5	0,8	12
	Tram, Local Bus & Metro Services	101,4	0,1	13
	Water Provision	99,3	-0,9	14
	Legal And Accountancy Services	99,3		15
	Gas Services	99,2	0,5	16
	Vehicle Upkeep & Repair Services	99,2	0,3	17
	Fixed Telephone Services	99,1	1,3	18
	House & Garden Upkeep Services	98,5	0,5	19
	Life Insurances	98,1		20
	Loans And Credit Cards	98,0		21
	Current Bank Accounts	96,9	0,2	22
	Mobile Telephone Services	96,6	0,1	23
	Internet Provision	96,1	1,1	24
	Electricity Services	95,7	-2,0	25
	Train Services	95,2	-0,7	26
	TV Provision	95,2		27
	Mortgages	94,9		28
	Real Estate Services	94,5	1,3	29
	Investments, Pensions, Securities	93,7	3,2	30
<b>P R O D U C T S</b>	Books, Magazines And Newspapers	104,3	-1,0	1
	Non-Alcoholic Beverages	102,8	0,3	2
	Glasses And Lenses	102,4		3
	Dairy Products	102,3		4
	Bread, Cereals, Rice And Pasta	102,3	-0,4	5
	Leisure Goods	101,5	1,7	6
	Small Household Appliances	101,5	0,0	7
	Personal Care Products	101,5	-0,2	8
	Alcoholic Beverages	101,0	-1,1	9
	Large Household Appliances	101,0	-0,1	10
	Other Electronic Products	100,6	-0,3	11
	Non Prescription Medicines	100,2	0,1	12
	Furniture And Furnishings	99,9	0,1	13
	House & Garden Upkeep Products	99,8	1,0	14
	Fruit And Vegetables	99,0	-0,6	15
	ICT Products	98,6	-0,3	16
	New Cars	98,6	-0,2	17
	Meat And Meat Products	98,4	-0,2	18
	Clothing And Footwear	97,4	0,0	19
	Fuels	95,0	-2,8	20
	Second Hand Cars	91,8	-0,7	21

<sup>135</sup> The Consumer Markets Scoreboard, Making Markets Work for Consumers, 6th edition – October 2011 [http://ec.europa.eu/consumers/consumer\\_research/editions/docs/6th\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/consumer_research/editions/docs/6th_edition_scoreboard_en.pdf), at p. 7-8.